

# **Analysis of 'Spirituality' in the Japanese-Speaking Mediation Context: Its Contributions and Controversies**

**Masako Ueda**

BA in Psychology & Women's Studies, LLB(Hon), LLM in Dispute and Conflict Resolution

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## Abstract

The present thesis analysed the suitability of the currently applied Japanese translations of the English terms 'spiritual' and 'spirituality' used by Lois Gold and Mark S. Umbreit in the mediation context. While two Japanese terms, transliterated spirituality and *seishin*, are applied in the Japanese-speaking mediation context, the use and meaning of those English terms in the context of mediation remain somewhat ill-defined. The suitability of *seishin* as a translation of spirituality has been questioned, and the meaning of transliterated spirituality, a relatively new word to replace *reisei* and *seishin*, remains ambiguous due to its context-bound nature. The revitalisation of *reisei* is now evident since the beginning of the 2010s in Japan.

This study addresses the following three questions. First, the thesis identifies, through a literature review, what the Japanese transliterated term of English spirituality means despite its context-bound nature. Secondly, the study establishes what Gold and Umbreit mean in the context of mediation by textual analysis on their usages of the term spiritual and spirituality. Thirdly, the thesis explores whether mediation in Japan has spiritual dimensions. Depending on the answers to these questions, the research then investigates whether any academic recommendations can be made, for instance, regarding whether *reisei* is a more suitable Japanese translation for those English terms. The latter two questions involve reviewing relevant literatures, conducting a case study and arguing the notion expressed by those English terms in the Japanese-speaking mediation context.

As for the research conclusion, *reisei* among those three terms appears to be better suited to translate the English term spirituality used by Gold and Umbreit in the context of mediation.

This thesis has two main contributions. First, the generated meaning of those English terms should help in understanding Japan's recent mediation development. Secondly, the findings identify both contributions to and controversies in the Japanese-speaking mediation context resulting from introducing the notion expressed by those English terms.

## Author's Declaration

I declare that the work in the present thesis was carried out in accordance with the regulations of the University of Gloucestershire and is original except where indicated by specific reference in the text. No part of the thesis has been submitted as part of any other academic award. The thesis has not been presented to any other education institution in the United Kingdom or overseas.

Any views expressed in the thesis are those of the author and in no way represent those of the University.

Signed:

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# 1 Introduction

## 1.1 Research aim, background and context

### 1.1.1 Aim

The purpose of the present thesis is to analyse the suitability of the currently applied Japanese translations of the English terms spiritual and spirituality used by Lois Gold and Mark S. Umbreit in Japan's mediation context and, if not found suitable, proposes a more appropriate translation based on the findings.

In order to pose the research questions for the present thesis to achieve this aim, the next two subsections first articulate the background of this research as well as research context.

### 1.1.2 Research background

Fuller (1971: 325-326) described mediation as offering, "to reorient the [disputant] parties toward each other, not by imposing rules on them, but by helping them to achieve a new and shared perception of their relationship, a perception that will redirect their attitudes and dispositions toward one another[...]. This quality of mediation becomes most visible when the proper function of the mediator turns out to be[...]of helping them to free themselves from the encumbrance of rules and of accepting, instead, a relationship of mutual respect, trust and understanding that will enable them to meet shared contingencies without the aid of formal prescriptions".

Private mediatory procedures in Japan are now regulated under the Act on Promotion of Use of Alternative Dispute Resolution 2004 (the 'ADR Act 2004'). Article 1 of the ADR Act 2004 defines mediation as a "procedure for resolution of a civil dispute between parties who seek, with the involvement of a fair third party, a resolution without using litigation". This 'fair third party' is a mediator who "constantly emerges in all groups of more than two elements" and "completely changes" disputants by the triad attending a negotiation process (Simmel, 1950: 148 and 138). In the present thesis, the term 'mediator' is defined as "someone who self-consciously assumes this relation toward others, deliberately putting its elements to use, whether in everyday life or in forwarding the business of rule" (Roberts and Palmer, 2005: 157).

In Japan, *chōtei* has been translated as ‘mediation’ in English for the readers’ convenience (Bryant, 1995: 5).<sup>1</sup> Even though translating *chōtei* as mediation is now considered as inaccurate because personnel or committee members available to *chōtei* are selected and assigned by courts (Kakiuchi, 2015: 375-376; RITEI, 2003: 1), *chōtei* in the broad sense includes both mediation and conciliation (Kakiuchi, 2015: 376). Japanese legal scholars are now well aware that *chōtei* and mediation are not the same; in fact, mediation is now often called ‘mediation’ by transliterating in *katakana* letters or *funsou chūsai* in *kanji* letters while *chōtei* remains separate and independent from what is categorised as mediation.<sup>2</sup>

In addition, discussing *naisai* which is the former system of *chōtei*, Tanaka (2006: 66-73) also warned that this legal culture should not be confused with the contemporary ADR movement ‘imported’ from foreign countries such as Germany and the United States of America (the ‘USA’); this includes mediation in the formal justice system. Tanaka (2000) considered mediation as an imported ADR system because, in the Pound Conference in 1976, Japan’s *chōtei* was introduced as one of successful dispute resolution methods (Miyatake, 2017).<sup>3</sup>

This clearly supports the arguments of Kakiuchi’s (2015) argument that ‘mediation’ in English and *chōtei* in Japanese are not the same. However, in the present thesis, *chōtei* and its former schemes available in Japan are considered because of the mediatory roles undertaken in those schemes by either the third-party decision makers or those who attended *chōtei*. Hence, although mediation and *chōtei* are now different services in Japan, the present thesis looks at the third-party alternative dispute resolution practice in Japan, which are currently available *chōtei* and private mediation, as mediation for its research purposes by taking the broad view suggested in Kakiuchi (2015). In fact, the contributing authors in Ronald and Alexy (2011) still refer *chōtei* as mediation.

Since the enactment of the ADR Act 2004 which certifies private organisations to undertake mediation and also disqualifies some categories of people from such a certification scheme, the Japan ADR Association has been established and has made recommendations to the

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<sup>1</sup> The Japanese translation of *chōtei* is 調停.

<sup>2</sup> The Japanese translation of *katakana*, *funsou chūsai* and *kanji* are respectively カタカナ, 紛争仲裁 and 漢字.

<sup>3</sup> The third-party alternative dispute resolution in Japan has long been used since the *Muromachi* (室町) and *Azuchimomoyama* (安土桃山) periods, which were between 1336 to 1603 (Callister and Wall, 1997: 313). The development of mediation in Japan is reviewed and discussed in chapter 5.

Ministry of Justice in relation to the expected amendments to the Act respectively in 2012 and 2018. The recommendation included to build some cooperation systems both nationally and internationally to coordinate mediation access for the disputants who are at a significant distance from one another (Japan ADR Association, 2018: 15). The Japan ADR Association (2018) listed such examples as disputes in international divorce matters, negotiation between the government and the victims of catastrophic natural disaster such as earthquakes.

Although it remains unclear as to whether their recommendation is being reflected in the amendments to the ADR Act 2004, what this conveys is not insignificant. Cross-border divorce matters, one of the examples listed by the Japan ADR Association (2018) in the recommendation, certainly consider mediation as an option for their discussions due to the costs, time, and distance involved. Such mediation can be conducted by co-working or remotely online (Roberts, 2014: 161-162 and 243-244). Japanese speaking mediators and prospective users are intersecting ‘foreign’ mediation cultures.

Mediation conducted in Japan, “applies many mediation models which are applied in mediation held in foreign countries” in North America and Europe (Wada, Ando and Tanaka, 2015: ii-iii; Wada and Otsuka, 2014).<sup>4</sup> The word ‘spirituality’ was first used in mediation to describe the practice in an article published by Shook and Kwan in 1987. Between 1987 and 2019, there have been more than 32 publications on the topic published in the English language yet in various countries including Australia, China, Ethiopia, India, New Zealand, Northern Ireland, Sierra Leone, Taiwan, Tanzania, Turkey, and the USA.

In Japan, Lois Gold and Mark S Umbreit’s notion of using ‘spirituality’ in mediation was introduced by way of translation (Fujioka, 2007). This is coincidentally the same year as the

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<sup>4</sup> Practice ‘models’, a mediation terminology used in Japan, include, but are not limited to, Transformative, Narrative, Evaluative, or Facilitative models. The models can be called by different names such as ‘approaches’ (Folger and Jones, 1994: 149-154; Parkinson, 2014: 34-42), ‘orientations’ (Bush and Folger, 1994; Riskin, 1994 and 1996: 25), ‘schools’ (Moore, 2014: 46-59), ‘stories’ (Pinzon: 1996), or ‘styles’ (Tracy and Spradlin, 1994:122-123) depending on literature and country where it is written. For example, in England, the term ‘model’ is used to refer to structural variations such as shuttle mediation, co-mediation, single or plural meetings, to name a few (Roberts, 2014: 157-162), while what is referred as the ‘model’ in the present thesis is called an ‘approach’ or ‘style’ (Parkinson, 2014: 34). There is no scientific or empirical data in deciding which mediation model is the most effective for resolving conflict and sometimes combinations of different models may work as effective (Parkinson, 2014: 34-42). The present thesis sets its terminology as ‘models’ to refer to those different ‘approaches’ of mediation because it is professionally applied and used by mediators working in Japan (Wada, Ando, and Tanaka, 2015; Wada and Nakanishi, 2016; Wada and Otsuka, 2014; Science Council of Japan, 2008; Yoshida, 2009) and a number of those who use ‘approaches’ instead of ‘models’ in Japan is relatively small and limited to those who are more familiar with mediation taken place in foreign countries (see for instance, Miyatake, 2017).

ADR Act 2004 came into force in Japan. However, the use and meanings of the English terms, spiritual or spirituality, in the context of mediation remain somewhat ill-defined (for example, see Jones, 2009). As a result, some mediators consider their practice as spiritual in nature yet hesitate to use that term to describe their mediation because of a belief that such terms undermine their professional credibility (Jones, 2009). The above-mentioned recommendations by the Japan ADR Association (2018) submitted to the Minister of Justice in 2018 included the fact that there has been no evident increase in the numbers of people using ADR, including the certified private mediation under the said Act, since its enforcement (Japan ADR Association, 2018: 3). There may be some impacts from introducing the notion on the Japanese-speaking mediation context, although this is only speculative at this point.

In fact, in 2001, Mark S. Umbreit came to Japan to hold his first mediation trainings (Ishihara, 2017a); in or around the same year, Japan's earliest founders of restorative justice also went to the USA to take part in his mediation training sessions (Ishihara, 2017a). Following the training, Fujioka (2007) as mentioned above, translated Umbreit's book, which contains a chapter that refers to Lois Gold's spirituality (1993), into the Japanese language. This translation is the earliest record of using the term 'spiritual' or 'spirituality' to describe 'mediation' in Japan.

In addition, issue 20, 2012, of *Kumamoto Jinzai Shinbun*, a local newspaper in the Kumamoto prefecture, reported that Ishihara, a dispute resolution scholar of Kumamoto University in Japan, who later translated Umbreit's online lecture as well as hosting his training in Kumamoto, Japan in 2017 (Ishihara, 2017a and 2017b), mentioned the importance of 'spirituality' in mediation during her public lecture titled "the Future of Dispute Resolution Studies – what can it bring to our society in cooperation with other studies?" held on 18 July 2012. In that lecture, Ishihara (*Kumamoto Jinzai Shinbun*: 2012) also used the transliterated term in a parallel of the word 'love' in her lecture.<sup>5</sup> Both Ishihara and Fujioka are scholars in the field of conflict resolution, publishing numbers of articles and books in the field while participating in conflict resolution programmes overseas.

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<sup>5</sup> The exact wordings of the newspaper article read as "the importance of spirituality · love was also lectured" (the Japanese translation is "スピリチュアリティ・愛の重要性も説いた").

What is unusual is that the translation of the English term ‘spirituality’ or ‘spiritual’ as used by Lois Gold and Mark S. Umbreit, was done using the transliteration in *katakana* letters and *seishin*,<sup>6</sup> in a form of ‘*seishinsei*’ or ‘*seishinteki*’.<sup>7</sup> Both *seishinsei* and *seishinteki* are formed by adding suffix to the term *seishin*. The former means a quality of *seishin* while the latter is an adjectival noun of *seishin*. The term *seishin* means either mind, spirit, motive or will.

In relation to the transliterated spirituality, some words which have their origins in foreign languages are transliterated and written in *katakana* and remain phonetically the same as the original word in the Japanese language (Horie, 2009).<sup>8</sup> The term ‘spiritual’ in Gaitanidis’s (2012) example is one of these and is pronounced as ‘*supirichuaru*’ in Japanese.<sup>9</sup> However, some words have been translated without transliteration into Japanese words such as ‘spiritual education’, which is translated as ‘*reisei kyōiku*’.<sup>10</sup> The transliterated spirituality expressed in *katakana* “came to define a field of studies related to the “spiritual boom” in Japan” (Gaitanidis, 2012: 367; Sakurai, 2012).<sup>11</sup>

Some examples may further highlight the gap between English spirituality and the word *seishin*. In the Japanese language, the ‘psychiatric ward’ of a hospital is *seishin-ka*; ‘psychiatric illness’ as a category of mental diseases is *seishin-byo* in Japanese.<sup>12</sup> At this point, those who only understand English may wonder whether *seishin* is at all suitable as a translation of the English term spirituality. According to Ando (2012) and Tazaki, Matsuda, and Nakane (2001), *seishin* is unsuitable as a translation of the English term spiritual because the way *seishin* is used in the Japanese language frequently means something closer to ‘mentality’, ‘will’ or ‘mind’ in the English language.

However, Kashio (2012: i) argues that the English term spiritual includes something which is both *seishinteki* and the transliterated spiritual. In the Japanese language, the transliterated spirituality is considered as a new word that replaces *reisei* (Horie, 2019) as well as *seishin* (Ando, 2012; Kashio, 2012). *Reisei* has traditionally been the translation of ‘spirituality’ in the first of transpersonal psychology, psychotherapy and psychiatry (Matsumoto, 2016), not

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<sup>6</sup> The Japanese translation of *seishin* is 精神.

<sup>7</sup> The Japanese translations of *seishintei* and *seishinteki* are 精神性 and 精神的.

<sup>8</sup> The Japanese translation of *katakana* is カタカナ.

<sup>9</sup> The Japanese translation of *supirichuaru* is スピリチュアル.

<sup>10</sup> The Japanese translation of *reisei kyōiku* is 霊性教育.

<sup>11</sup> This point will be further explored in Chapter 2.

<sup>12</sup> The Japanese translations of *seishin-ka* and *seishinbyo* are respectively 精神科 and 精神病.

*seishin* as used in the context of mediation by Fujioka (2007). Between 1990s and the 2010s, however, the transliterated spirituality has been used more often than *reisei* although both mean the same in these fields (Matsumoto, 2016).

Some scholars pointed out that the English term 'spirituality' was first used in Transformative Psychology by people who had visited non-English speaking countries that were located to their East where they were introduced to the notion as part of their encounter with 'spiritual' practices such as Buddhism, Hinduism, yoga, meditation and mysticism (Ishikawa, 2019; Ito, 2004). As a result of counter-culture movements such as seen in the East coast of the USA, many publications in transpersonal psychology were read not only in English but also in Japanese (Ishikawa, 2019). Both the term *reisei* and transliterated spirituality are used interchangeably in the field. Similarly, in Religious Studies, *reisei* is used as a synonym of transliterated spirituality (Horie, 2018). While Religious Studies, Education and Transpersonal Psychology as distinct fields of enquiry share the same term *reisei*, how each field uses and discusses the term, is very distinct.

These views raise the questions about the suitability of transliterated spirituality or *seishin* for the English term 'spirituality' as used by Lois Gold, who is both a mediator and therapist, and Mark S. Umbreit, in the Japanese-speaking mediation context. Both authors make a clear distinction between their mediation practice and psychotherapy or other psychology-related practices (Gold, 1993 and 2003; Umbreit, 1997 and 2001).<sup>13</sup> The overlapping applications of those terms in the context of mediation and other fields do not integrate Japan's mediation into one of those fields. So why did Fujioka (2007) not simply use the term *reisei* in her translation?

Another example illustrates the difficulties surrounding the translation of the English term spirituality into the Japanese language. In order to translate Robert Cole's (1999) *The Spiritual Life of Children*, Sakurauchi (1997: 369), the Japanese translator, stated in the translator's note section that, "I could not think of any suited Japanese words for the English word 'Spiritual' used in the original title, *The Spiritual Life of Children*." The word she did select for the Japanese title is *shinpi*,<sup>14</sup> which means 'mystery' in English. This translated

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<sup>13</sup> The danger of ignoring the author's own opinions is further illustrated in Chapter 2 which discusses how spiritualities used in Peacebuilding and Religious Studies overlap each other.

<sup>14</sup> The Japanese translation is 神秘. Cole's *The Spiritual Life of Children* is published as '子供の神秘生活'.

book was published in Japan in 1997, hence Sakurachi would have begun her translation well before then. So why did Sakurachi, a professional translator, not consider either transliterated spirituality, the term *reisei*, or even the term *seishin*? In addition, the two letters of '*shinpi*' (神秘) are also used in a term '*shinpi-shugi*' (神秘主義) which means 'mysticism'. Sakurachi's translation implies the English term 'spiritual' can connote Japanese speaking audience some links to 'mysticism'. However, Jespers (2011: 104) claims that contemporary spirituality or spiritualities are different from the mysticism of the world religions; in other words, they used to be in the same spectrum. This point needs to be clarified in the Japanese speaking context.

Shimazono (2012), who is a foremost Japanese scholar of religious studies and spirituality (Horie, 2018), described *reisei* as the closest word to 'spirituality' in English which was used in the context of religions or religious studies. However, Shimazono (2012b) translated the Japanese word '*seishin sekai*' (精神世界) as 'spiritual world' in his own English article. These variances seen in the translations are enough to illustrate the complexities of the surrounding issue regarding transliterated spirituality, *reisei* and *seishin*. Suzuki's *reisei* was said to be founded on Buddhism (Kasai, 2003 by citing Sharf, 1995),<sup>15</sup> and the term itself has not been used widely by the general public of Japan (Horie, 2018; Ito, 2003; Kasai, 2003; Kashio, 2002; Suzuki, 1972).

Regarding transliterated spirituality which seems to confuse its audiences, Horie (2009) has argued that there are a number of benefits to be gained by using the transliterated spirituality rather than *reisei* as a translation for the English term spirituality. Namely, the transliteration itself shows that the concept has its origin in a foreign concept and therefore avoids the negative connotations of the word *reisei* due to the letter *rei* (霊), and its association with the supernatural or other-worldliness (Horie, 2009).

In Horie's (2009) view, the general public of Japan recognise foreign concepts, which are often written in transliteration, as something fashionable and advanced, hence the use of transliterated spirituality projects a positive message and disassociates from notions of the supernatural. However, such multiple meanings depending on whether it is in the context

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<sup>15</sup> Sharf (2005) analysed Daisetz Suzuki in the same group of *Kyoto Gakuha* including Shin'ichi Hisamatsu and Keiji Nishitani.

of a public lecture based on academic research or pop-culture as mediated by mass media, along with the commercialisation of products and services, still create confusion and misunderstanding in Japanese society (Sakurai, 2012). In fact, as mentioned earlier, there are many disciplines which use both the term *reisei*, *seishin* and transliterated spirituality interchangeably.

In order to further highlight the complex nature of translating the English term spirituality, it would be helpful to refer to ordinary online English-Japanese and Japanese-English dictionaries to which any member of the general public can access by using the internet.<sup>16</sup> There are various Japanese words such as *chōzokusei*, *sūkō*, or *reisei* available in addition to transliterated spirituality and *seishin* to translate the English term spirituality.<sup>17</sup> However, the difficulty with the Japanese words is that none of them are necessarily always translated into the English term. For instance, the online Japanese-English dictionary translations for *seishin* include ‘mentality’. *Chōzokusei* can mean ‘otherworldliness’ and *sūkōsa* is translated as ‘nobility’ or ‘sublime’ as well as ‘spiritual’. Although *reisei* includes meanings such as divinity and incorporeal, a book written by Suzuki (1944/1972) has a translated title, *Japanese Spirituality*, in which the original source word used for ‘spirituality’ was *reisei*.<sup>18</sup> In more recent arguments, Kashio (2012) analysed the term *reisei* and concluded that it was employed in various ways by various authors, but with a common meaning as ‘something invisible and beyond one’s being’.

These possible Japanese translations of the English terms ‘spirituality’ or ‘spiritual’ are a reminder that the term is context-bound (la Cour, Ausker, and Hvidt, 2012). The consequences of using both transliterated and translated Japanese equivalents of the English term spiritual or spirituality in the context of mediation need to be discussed. At this point, it is unknown whether in the context of Japanese-speaking mediation, the meaning of the English term spirituality is conveyed by the word *seishin* and transliterated spirituality. In the Japanese language, *seishin* and *reisei* have been clearly distinguished by Suzuki (1944/1972) and, if this argument is applied in the mediation context, *seishin* would not

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<sup>16</sup> The website is available at <https://eije.weblio.jp/>.

<sup>17</sup> The Japanese translations for *chōzokusei*, *sūkō* and *reisei* are respectively 超俗性, 崇高 and 靈性.

<sup>18</sup> The word *reisei* (靈性) is also used as an adjective and means ‘spiritual’, too. For example, as mentioned earlier, *reisei kyōiku* (靈性教育) means ‘spiritual education’.



mean the same as *reisei*, even though both Japanese terms *can* mean ‘spirituality’ as discussed above.

Thus, Fujioka (2007) might not have come across the term *reisei* and was not entirely certain what Gold (1993) and Umbreit (2001) meant by the terms spiritual and spirituality in the same way as Sakurachi (1997) could not think of any other words but *shinpi* to translate the English term spiritual in the original title. While Fujioka (2007) is a prominent scholar of Osaka University with occupational backgrounds in both dispute resolution and psychology, she does not have a background in spirituality.<sup>19</sup> Although the term *reisei* was first described by Daisetz Suzuki (1944/1972) in a detailed manner and his definition of the term is still supported and cited (Kirita, 2007; Shimazono, 2012; Takahashi, 2003), this point must also be addressed in order to consider the suitability of the currently applied Japanese translations for the English terms spiritual and spirituality as used by Lois Gold and Mark S. Umbreit.

Examining the original meaning of ‘spirituality’ in English as used in the context of mediation can help to clarify this. By following academic analyses by Horie (2003 and 2018), Kashio (2012) and Matsumoto (2016) regarding the relationship between the transliterated spirituality, *seishin*, and *reisei* together with the argument put forward by la Cour, Ausker, and Hvidt (2012) and Suzuki (1944/1972), the present thesis narrowed down the candidate words into those three words to discuss their suitability as a translation of the English terms spiritual or spirituality as used in the mediation context.

Before considering the suitability of the translations currently used in Japan’s mediation context, however, the notion expressed by those terms in English language in the mediation context also needs unfolding to see whether the notion itself exists in Japan’s mediation context. In other words, was mediation in Japan already ‘spiritual’ prior to the introduction of the notion in 2007 by Fujioka or did it become part of the discourse as a result of being introduced in that year? If the latter is the case, then the present thesis must also consider whether the introduction of the English terms spiritual or spirituality through Japanese translations of work by Lois Gold and Mark S. Umbreit are an indication of a ‘spiritual boom’

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<sup>19</sup> The whole point of Fujioka’s translation of Umbreit (2001) was not to introduce the term spiritual or spirituality used by Umbreit (2001) for less than 10 times in his publication. Her purpose was to introduce his book as a whole to the field of Japanese-speaking mediation.

or spiritual trend in Japan, as reported by Gaitanidis (2012) and Sakurai (2012). However, Horie (2018; 2019) points out that the trend of transliterated spirituality has now tailed off. Instead, the revitalisation of *reisei* is gradually occurring (Horie, 2018). Should the Japanese-speaking mediation context not follow the movement? This would also be the consequence.

Even if this study finds transliterated spirituality should be a better suited translation in the context of mediation, there are further issues with those transliterated terms of the English terms, spiritual and spirituality. Those transliterations are also used in other disciplinary contexts including peacebuilding in Japan (Inagaki, 2007; Kobayashi, 2007; Matsumoto, 2016; Sakurai, 2009; Shimazono, 2007). Indeed, both 'peacebuilding' and 'peacemaking' are often, and perhaps carelessly, used as interchangeable; for example, compare the contents of Gopin (2000), LeReche (1993), Turay (2000), and Zelizer and Chiochetti (2017). Gopin (2000) uses 'peacemaking' whereas the latter three authors use 'peacebuilding' when comparing with or discussing mediation. Louise Diamond (2000 and 20002) clearly distinguishes between the two and in the Japanese translation of her work, for 'peacemaking' is *chōtei*.<sup>20</sup>

Although peacebuilding can be seen as overlapping with mediation, the two fields are not interchangeable (Lederarch, 1997; LeResche, 1993; Zelizer and Chiochetti, 2017). Peacebuilding practices encompass dispute resolution at an international level, with structural and relational changes often included in a view of reconciliation (Lederarch, 1997; Zelizer, 2013). Mediation is a narrower tool for solving disputes in more domestic arenas such as between individuals in a family, workplace, school or healthcare setting (Lederarch, 1997; Zelizer and Chiochetti, 2017). However, this does not mean that there are not mediators who are involved in dispute resolution at an international level (see William Ury, for example); nor do peacebuilders ignore the importance of dispute resolution at an individual level (see for example Louise Diamond).

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<sup>20</sup> In her Japanese translated book (Diamond, 2002), the translation for the English term 'mediation' was *chōtei*, too. Although this is completely out of scope of the present thesis, such variances in the Japanese translations may attract legal scholars' attentions. For the present thesis, the focus is on the suitability of the currently applied translations for the English terms spiritual and spirituality used by Lois Gold and Mark S. Umbreit. The accuracy of the translations of the relevant terminologies are not concerned, albeit important, since the discussions consider solely the Japanese-speaking mediation context. The terminology of 'mediation' in the present thesis was already discussed earlier in this subsection.

One difference is that while in mediation, the settlement of the dispute is the main goal,<sup>21</sup> mediation undertaken by peacebuilders aims to restore ‘peaceful relations’ and the definition of ‘peace’ depends on various factors in each dispute. Bercovitch and Kadayifci-Orellana (2009: 178) argue that in invariably complex situations, defining the roles of mediation and mediator will depend on each scholar as well as the religious-cultural context. Japanese scholars of mediation have echoed this view (Wada, Ando, and Tanaka, 2015: 40-41).

While Lehti and Lepomäki (2017) have proposed that connecting the two professions at a private level is important, this is now an argument that has been put forward yet in Japan. This is perhaps not surprising given that private mediation only gained its legal recognition in 2007 by the ADR Act 2004.<sup>22</sup> However, the fact that the same transliterated term ‘spiritual’ or ‘spirituality’ are now used in those two different occupational contexts may be an indication that the two fields will find increasing common ground depending on the discovered meanings of those terms used in the mediation context. Alternatively, using the same transliterated spirituality in these fields despite their differences could lead to confusion in both fields.

Furthermore, transliterated spirituality in the Japanese language cannot be distanced from religions. Japan’s mediation context may be another case where the term ‘spirituality’ is used to convey the somewhat complicated yet underthought opinion whereby ‘religion is not spirituality’. The transliterated spirituality started to be commonly used in the 1990s as it replaced *seishin* or *reisei* when people in Japan frequently began to refer to being *spiritual but not religious* (Ando, 2012; Horie, 2003; Kashio, 2012). The phrase is considered to convey a position being disconnected from institutionalised religions while embracing “deinstitutionalised religiosity” (Miyajima, 2006: 136 by citing Yumiyama, 2006: 91).

However, transliterated spirituality is understood by Japanese religious study scholars to mean, “something ‘sensual’ toward something religious” (Miyajima, 2006: 135 by citing Ito,

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<sup>21</sup> In the present thesis, the term ‘settlement’ means the same as described by Roberts and Palmer (2005: 3) who used it to mean “in the general sense of the search for negotiated, consensual agreement as opposed to resort to a third-party decision”.

<sup>22</sup> Please refer to Bercovitch and Kadayifci-Orellana (2009) for further differences. This relatively new development will be discussed in Chapter 5 once the meanings of the terms spiritual or spirituality generated in the English-speaking mediation context.

2003: ii, Kashio, 2004: 273, and Kasai, 2002: 85). Hence, being spiritual in its transliterated form in Japan does not always mean to be non-religious. It can be a different way of expressing their religiosity (Horie, 2019; Webster, 2012). The consequences of using transliterated spirituality in the context of mediation also needs some explanation for the purposes of the present thesis because of faith-based mediation model.

When articulating the variances of those Japanese words that can yet may not all be back translated as the English term 'spirituality', the fact that Japan is a country with both syncretistic and polytheistic traditions has to be considered (Sasaki, 1996: 267-268; Tanaka, 2000: 121). People in Japan tend not to decide which religion is more dominant than others (Tanaka, 2000: 106; Yaguchi, 1993). Tanaka (2000: 107), one of leading legal scholars in Japan, argues that the Japanese people have multiple ways of deciding what stands for 'justice' of their choice because of their underlying religious syncretism. In Tanaka's analysis, the Japanese view judges and courts still the same as the old-day's traditional decision-making institutions which once respected and required societal harmony the most, rather than based solely on what is right. At the same time, they retain their syncretic views due to their attitudes to different religions. Tanaka (2000) explains that this attitude toward multiple justices is based on the importance of preserving harmony; due to people's embedded syncretic view, there is no need to decide which God is the 'only right' God. As a result, they do not seek to decide what stands only for 'justice'; instead, they prefer seeking out what is more harmonious, as their notion of 'justice' and can embrace multiple possibilities of 'rightness'.

This embedded syncretic attitude may have influenced the development of the multiple Japanese translation words for English 'spirituality'.<sup>23</sup> Without looking into the views and attitudes of Japanese people toward religions as well as justice in modern Japan, the development of multiple 'spirituality' in the Japanese language cannot be understood and therefore a comprehensive account of spirituality used in the context of mediation can only be given by addressing these matters fully. However, in order to undertake such academic discussions, one needs to ascertain whether the English terms spiritual or spirituality as used by Lois Gold and Mark S. Umbreit in their mediation literature are grounded in any religions or religious doctrines or faiths in the first place. Therefore, what the two authors mean by

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<sup>23</sup> This point will further be articulated more in Chapter 2 below.

the English term spirituality in the context of mediation must be analysed as a starting point of the present thesis for it to achieve its research aim.

In addition, mediation involving Japanese people is not limited to the country of Japan because of cross-border mediation. As the notion of using 'spirituality' in mediation has already been established in Japan, any Japanese speaking person as well as Japanese speaking mediators, may seek to integrate 'spirituality' in their prospective mediation if they so desire. Transliterated spirituality is sometimes considered as transcendental and separated from culture (Inagaki, 2007). It is thus referred to as 'glocal' (Kobayashi, 2007).<sup>24</sup> By considering the suitability of the translation currently used in the Japanese language, the present thesis contributes to such cross-border, international mediation by articulating whether the notion expressed by transliterated spirituality in the context of mediation is 'glocal'. However, at this point, it is already questionable for the transliterated spirituality to have such a 'glocal' effect in the context of mediation because of the term spirituality's context-bound nature identified in the precedential research such as la Cour, Ausker, and Hvidt (2012) and Tazaki, Matsuda, and Nakane (2001), albeit not conducted in mediation.

Lastly, in relation to the above-mentioned attitudes toward religions in Japan, Lewis (2018) raises another controversial point: in modern Japan, the majority of people only have a vague awareness of religions and something related to religions including their own religion or religious faith. Of course, they will have a basic knowledge of religions learned during their compulsory education.<sup>25</sup> However, religious practices, which are deeply embedded in the customs and every day activities, are no longer recognised as religious because of people's lack of clear recognition and understanding of what religion is (Lewis, 2018). Although the Japanese people may have reached the point of an understanding that is "deeper than distinction between 'religious' and 'secular', or 'the sacred' and 'the profane'" (Lewis, 2018: 304), their binary classification as being either religious or non-religious still exists (Lewis, 2018).

In such a society, when the notion of using spiritual or spirituality introduced in the context of mediation without clarifying the meanings, their pre-existing binary classification as either

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<sup>24</sup> These academic arguments are outside of the scope of the present thesis which only concerns with issues arising from the transliterated spirituality or other translations used or available in the Japanese-speaking mediation context.

<sup>25</sup> Chapter 6 discusses this in more detail.

being religious or non-religious will be woven into its acquired meaning (Lewis, 2018: 304). Similarly, Ama (1996/2005) points out that the Japanese do not mean to be atheist when they refer themselves as *mushūkyō*,<sup>26</sup> which means ‘non-religious’ or ‘lack of religious beliefs’. In such a country, the impact, both negative and positive of using transliterated spirituality to describe mediation experiences cannot be underestimated, especially when it comes to mediation. Japanese speaking mediators and clients who only have such a binary classification yet do not have clear understanding of what religion is thus may be ‘naïve’ about spirituality used in the mediation context.

This discussion about the complex place of religion in Japanese is intended to highlight the issues that Japanese speaking clients as well as mediators face as a result of using transliterated spirituality, *seishin* and *reisei* in and outside of the context of mediation. Because this research involves transliterated spirituality as well as the English term spirituality, both of which have been described as context-bound in nature by previous research, the next subsection establishes the research context before formulating the research questions and objectives.

### 1.1.3 Research context

Ando (2006 and 2012) categorised researches about transliterated spirituality into two groups: one focuses on the context in which transliterated spirituality is used and the other approaches the same term through a kind of meta-analysis, without fixing the context, and seek to grasp people’s expectations or intensions of using the term. The former group can be further subdivided into three categories of researchers (Ando, 2006 and 2012): those who work in fields of care such as health care, social work and welfare, and education and aim to convey the importance of transliterated spirituality in caring for others; religious study scholars who carry out more logical analyses on the meanings of transliterated spirituality in the context of religious studies; and activists who use transliterated spirituality as their theme or slogan to agitate society.<sup>27</sup> Although there is a degree of overlap between the three, this research focuses on mediators who are seen as belonging to the first sub category and also their clients including prospective ones.

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<sup>26</sup> The Japanese translation of *mushūkyō* is 無宗教.

<sup>27</sup> Kashio (2012) echoed and subdivided the activist group, Ando’s third category, into further two; researchers in ecology and pop- or sub-culture.

The context for this research, therefore, concerns mediation that involves Japanese speaking clients as well as mediators. Before detailed objectives are outlined, the question of how to examine the suitability of the translations currently applied for the English term spirituality in the mediation context, should be addressed. Cultural comparison can be used, and indeed, spiritual experiences are said to be perceptible by studying one's own cultural framework (Van den Hoogen, 2011: 95). However, the difficulty arises when mediation practices are fixed in a particular 'cultural' context.

The categorisation of mediation practice is based on written or oral language traditions and places countries such as Japan, China and the USA into the same group of written language tradition (Wall and Callister, 1995) and disregards cultural traditions. So, for example, discussions about mediation as an Alternative Dispute Resolution ('ADR') method (Wall and Callister, 1995; Miyatake, 2017: 4) may not take into account the specific expectations of prospective users of mediation in Japan that are shaped by their cultural traditions. At the same time, countries cannot be simply categorised based on their language.

For example, in the context of the USA, LeResche (1993:321) stated that, "[t]here are at least 517 ways that the Native American form of mediation, peacemaking, occurs in the USA today. The U.S. government has "recognized" 517 tribes with a total of approximately 1.8 million members; they speak 252 languages in addition to English. (There are 573 bands across Canada, with an average membership of 525 individuals per band.) Tribes, bands, and villages have diverse social and governmental structures." Similarly, Meyer (1995: 30) states that, the American Government recognises "about 500 tribes as "Native American" [...and] together, they speak more than 250 languages and have found at least that many ways to resolve conflicts peacefully".

The native Hawaiian people in the USA use their own traditional mediation process called ho'oponopono (Wall and Callister, 1995: 46). Ho'oponopono was not considered as a part of written language tradition because of its cultural origin (Wall and Callister, 1995) and has been described as not sharing the "strong commonality" among mediation practices of the other American and Japanese people (Wall and Callister, 1995: 46) as it is seen as belonging to a society based on oral tradition (Wall and Callister, 1995).

However, this does not mean that non-native Hawaiian people do not use ho'oponopono or that native Hawaiian people do not use litigation to pursue their claims (Shook, 1985). Although culturally embedded differences such as written or oral traditions are still significant in terms of dividing mediation processes into different categories (Wall and Callister, 1995), mediation using ho'oponopono is now available and used as a tool of mediation to those who understand the nature and wish to use it for solving their disputes (Shook, 1985).

For instance, Huber (1993: 358) proposes integrating spirituality originating in the Aboriginal culture into the non-indigenous mediation process by using the Medicine Wheel mediation model which consists of four elements, physical, emotional, intellectual and spiritual. In other words, the application of this culturally specific model is no longer limited to mediation targeting disputes occurred among the Aboriginal. When only focusing on written or oral language tradition and observing these cross-cultural applications of mediation tools in the USA alone, the native Hawaiian's tradition used in the contemporary USA now becomes a part of written language tradition, which is not accurate.

Likewise, in Japan, there are minorities whose parents or ancestors migrated from other countries such as Korea (Lee, 2018) and Brazil (Hoshino, 2018) and more recent communities that are religion based such as Muslims (Numajiri and Miki, 2018) as well as indigenous peoples such as the Ainu, who are recognised as the first nation of Japan under the Ainu New Law which was passed by the Diet in April, 2019 (Nikkei, 2019). While minority groups living in Japan may speak the same language, Japanese, their dispute resolution attitudes in terms of 'cultural' preferences do not mean they should be restricted to traditional dispute resolution methods. In other words, mediation methods can be adopted to different cultural groups by sharing the same language.

Thus, indigenous peoples certainly can also choose litigation over their traditional dispute resolution method, if so desired, in the same way as 'other, non-indigenous' people in the same society can choose to use one of the traditional dispute resolution methods. While indigenous peoples, such as native Hawaiian and Ainu people, have the right to self-



determination under the United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295), basing methods of dispute resolution on the cultural origins of populations who now use the same language and reside in the same country, creates unnecessary divisions and can lead to unintentional discrimination.

Although Japan can improve its mediation practice by learning and using mediation techniques and strategies developed and used in other countries with the same written language tradition including the USA (Miyatake: 2017; Wall and Callister, 1995: 46), emphasising a division between written and oral language traditions will result in ignoring those minorities who live in the county by losing their long preserved traditions to learning the same language (for instance, see Murayama, 2014a). In addition, this kind of distinction places Japan, China and the USA into one category, thus overlooking important differences between these three countries. This is especially the case where Japan has developed its own mediation schemes rather than following other countries. During discussions about the ADR Act 2004, Yamamoto (HoC, 2004b) pointed out that Japan and the USA's mediation development and social circumstances are significantly different. The legislature did not consider foreign countries' situation and drafted the bill of the Act entirely to fulfil Japan's needs for ADR methods regulated under its own legislation (HoR, 2004b: 3, 7, and 30).

By focusing on the common language used in Japan, the approach of the present thesis would meet the approval of Van den Hoogen (2011: 95) who argues that spiritual experiences are perceptible by studying their linguistic forms and also "by way of 'surprise', looking for ruptures in the patterns of meaning" and "in the way these patterns refer to our reality". Such a focus would allow this study not to overlook any differences and commonalities in their meanings of the same English terms spiritual and spirituality, even though both indigenous and non-indigenous mediation are used in and by different cultural groups (Shook and Kwan, 1987). At the same time, the focus enables the division between indigenous and non-indigenous mediation to remain equivocal.

In order to discover the spiritual experiences reflected in "linguistic, historical, economic, cultural phenomena" such as "attitudes, rites, texts and material culture" (Van den Hoogen,

2011: 95),<sup>28</sup> this study refers to the official language, Japanese, to examine spirituality in the Japan's mediation context, rather than dividing the country based on the multiple cultures that co-exist in the country. This approach is also used in the research by Horie (2019) whose research aim was to generate the meaning of transliterated spirituality, a Japanese term, by researching how the English term spirituality is used. In his research which narrowed its research contexts to Psychology and Sociology of Religions, Horie (2019) selected the target articles and defined what the term spirituality means in English publications. By doing so, transliterated spirituality in those contexts was defined for people of Japan.<sup>29</sup>

By adopting the similar approach to the present thesis, the focus is not intended to be one specific country nor is it intended to restrict the notion to one particular culture when the English language is referred to in this thesis. This is important given that English language resources on spirituality and mediation are published in different countries. Acquiring an official language as a second language and using it to communicate does not mean one abandons own traditional culture; rather, it allows cultural values to be communicated using a common language (Lee, 2003).

Concerning more contemporary, non-secular spirituality, scholars have noted a lack of academic discourse in this regard (see for instance, Singleton, 2016; Watson, 2016). Japanese scholars studying modern spirituality have also pointed to the difficulties of making comparative studies on the topic at this point of academic progress (Ama, 1996; Nishimura, 2018). Yet such studies would make a significant contribution to the study of religious sociology despite, or rather because of, those difficulties (Shimazono, 2012). For example, as of 2012, there were no Japanese academic studies that had collected data attributable to people who are 'spiritual but not religious' while a few though not many had been conducted in the USA (Koike, 2012).

In discussing this gap in available resources to conduct comparative studies between Japan and other countries, Ito (2003) refers to Tomlinson (1999: 57) who argued that culture tends to be tied to a particular geographic area and its meaning construction is therefore also connected to the area. His conclusion was that, although access to information has become

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<sup>28</sup> Similarly, Waaijman's (2002: 845-860) research which is comparative in nature was carried out by focusing on the different languages such as English, French, and Italian and not comparing cultures.

<sup>29</sup> Horie's (2019) study is analysed in further detail in Chapter 2 below.

much more globalised and understanding how different spiritualities intersect with one's own culture must be an important task, the starting point has to be to address the lack of a comprehensive picture of spirituality in Japan itself (Ito, 2003:162-169). Indeed, Nakamura (2012) doubts the need for such comparative studies. In his view, spirituality is made up of various factors and elements which cannot be standardised, even across one country, let alone across multiple countries and cultures (Nakamura, 2012). As mentioned earlier, even within Japan itself, there are many terms used for the English word 'spirituality', and those terms do not always back translate as equivalences of the English notion of spirituality.

The complex nature of spirituality in Japan has been explored in qualitative studies conducted by Tazaki, Matsuda and Nakane (2001 and 2002). According to their findings, the English term 'spirituality' used in one context cannot be transplanted to the same context in Japan by simply using available Japanese translations (Tazaki, Matsuda and Nakane, 2001 and 2002; see also Ando, 2012). They argue that the complexities surrounding the translated term being used has to be taken into account, and in particular, greater consideration needs to be given to the often-overlooked influence of the religiosity of Japanese people that is habitually embedded in their daily lives (Tazaki, Matsuda and Nakane, 2001 and 2002). Hence, understanding spirituality in Japan needs a flexible approach to illustrate the meaning of it as used in each context in which the studies are conducted (Nakamura, 2012; Tazaki, Matsuda and Nakane, 2001 and 2002).

Finally, among the various mediation models, the most frequently used in Japan are the narrative, facilitative and transformative models (Wada, Ando, and Tanaka, 2015; Wada and Nakanishi, 2016; Wada and Otsuka, 2014; Science Council of Japan, 2008; Yoshida, 2009). These models are not specially tailored for, or to be adapted to, the Japanese speaking mediation from what have been used by English-speaking mediators.<sup>30</sup> In the early period of development of mediation which was in the 2000s of Japan, Japanese mediators flew to the USA to learn mediation skills and brought those back to the country (Ishihara, 2017a). Thus, mediation practice in Japan has been greatly influenced by other countries, especially the USA.

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<sup>30</sup> See for example, Fujioka (2005), Wada, Ando, and Tanaka (2015), and Wada and Nakanishi (2016).

As for another example, Doshisha University in Japan offers lawyers in Japan mediation training courses in cooperation with Pepperdine University Law School in the USA (Doshisha Law School, 2018). Zumeta (2003 and 2017), a mediator working in the USA, who has discussed the notion of spirituality in the context of mediation, is now an Adjunct Professor at Pepperdine University School of Law's Straus Institute for Dispute Resolution (Georgakopoulos, 2017: xxx). Naturally, the introduction of the book written by Mark S. Umbreit (2001) by translation in 2007 as mentioned in the previous subsection was not an exceptional movement in the profession.

Taking into consideration these academic arguments and professional movements regarding Japanese-speaking mediation practice as highlighted thus far, the present thesis focuses on the consequences of introducing transliterated spirituality or *seishin* to the Japanese-speaking mediation context through the translation of Lois Gold and Mark S. Umbreit's work, in which these terms came to be chosen as Japanese equivalents of spirituality as used in their texts.

## 1.2 Research questions and objectives

By achieving its research aim as stated in 1.1.1 above, the present thesis will not only contribute to improving the service quality of mediators who work with Japanese speaking clients but also contribute to the study of spirituality in Japan with new academic perspectives. By understanding the research background and establishing its context, the present thesis now poses three key research questions.

The first question is to identify what the Japanese transliterated term of English spirituality means despite its context-bound nature. Secondly, the study seeks to establish what Lois Gold and Mark S. Umbreit mean by the English terms spiritual or spirituality in the context of mediation. Thirdly, the study explores whether mediation in Japan has spiritual dimensions. Depending on the answers to these three questions, the further question may be addressed as to whether any academic recommendations can be made for instance, regarding whether *reisei* is a more suitable Japanese translation for the English terms 'spiritual' and 'spirituality' to be used in the Japanese-speaking mediation context.

By considering those questions, together with the points discussed so far in this chapter, the thesis has the below objectives.

The first objective is to define and clarify what transliterated spirituality means in Japan. So far as known, the term used in the context of mediation was transliterated, but such transliteration does not necessarily mean that the notion originally expressed by the English terms spiritual and spirituality is being fully conveyed. The investigation should extend to how transliterated spirituality has emerged.

As transliterated spirituality is being used in various contexts in Japan, including in peacebuilding, the next objective is to understand what Lois Gold and Mark S. Umbreit mean by the English terms spiritual or spirituality when used in the context of mediation. Since 1987 when the first article was published using spirituality in the context of mediation in the English language, many mediators have used the terms 'spiritual' or 'spirituality' to describe their mediation experiences. These voices from mediators and scholars whose practice are based in various countries such as Australia, China, Ethiopia, India, New Zealand, Northern Ireland, Sierra Leone, Taiwan, Tanzania, Turkey, and the USA, have been published in English. Those two authors' views expressed by those terms are thus cross-referenced to other English language publications on the topic.

Once the meaning of spirituality was established as used by these two authors in the mediation context, the third objective of the thesis is to establish whether describing mediation practice as spiritual in nature is specific to a group of mediators who work in a proximity and as such whether it is possible to speak of a new model of mediation. The claim of who mediates matters is put forward by some mediators, including Lois Gold and Mark S. Umbreit who have described their mediation practice using the terms spiritual or spirituality. This claim also deserves close attention because Article 7 of Japan's ADR Act 2004 makes reference to the idea that who mediates matters.

This investigation will enable the present thesis to establish the extent to which a clear line can be drawn between mediation experiences that are viewed as spiritual in nature and those that are explicitly faith-based, in other words, mediation being conducted based on a choice of institutionalised religious faiths or by sharing the common faiths among the

mediator and attending clients. Mediation as an academic field has thus far not made reference to such terms so it is assumed that it is still relatively uncommon and therefore, under-researched. At the same time, Roberts (2014) has still pointed out the general gap between practice and theory in the field of Mediation which was pointed out by Rifkin (1994). Seemingly, the task seems time-consuming and this research should contribute to accelerating such an integration. Unfamiliarity with spirituality as a concept in the field may result in professional mediators being reluctant to engage when they come across the term (Jones, 2009). The present thesis aims to address this reluctance by clarifying any issues and hindrances that emerge as a result of achieving the third objective albeit limited to the Japanese-speaking context which only translated Louis Gold and Mark S. Umbreit thus far.

In order to understand the position of the generated notion in the Japanese-speaking mediation context, the fourth objective is to investigate the development of mediation practice in Japan to date as well as the expectations of Japanese speaking mediation users. More specifically, the present thesis investigates whether the generated notion of 'spirituality' has intersected with the development of mediation in Japan prior to 2007 when the notion was introduced by the translation into Japanese of the English articles. Depending on the outcome, the present thesis will continue to argue one of the followings. If there is evidence of the notion prior to 2007, differences and similarities in the application of the term will be analysed. If it only appears to be used after the publication of Gold's (1993 and 2003) and Umbreit's (1997 and 2001) work, the question will be posed as to the extent to which the notion fulfils any of the Japanese speaking mediation users' expectations.

The fifth objective is to discover whether the currently applied translation of those terms, namely *seishin* or the transliterated spirituality, convey the generated meaning of 'spirituality' or 'spiritual' in the context of mediation for Japanese speakers. Under this objective, the thesis will ask whether currently applied translations of those terms are better suited to the Japanese-speaking mediation context and if not, why not. If these translations are found to be unsuitable or create more hindrances than benefits, the present argument will be made for the term *reisei* to be used instead, as it may convey the meaning more effectively in the specific context of mediation. This objective also allows the present thesis to analyse the contributions made or controversies generated by those translations when used in Japan's mediation context.

### 1.3 Disciplinary location of this research

To achieve the above discussed aims and objectives, the present thesis sets its disciplinary location in the study of spirituality (Principe, 1983; Schneiders, 1986 and 1989; Sheldrake, 1999; Wolfeich, 2012). Among these scholars, Schneiders (1989) seems to provide the most detailed discussion on spirituality as an independent discipline. At this point, a reference to an example raised by Frohlich (2001), who distinguished what she defines Spiritual Discipline and Discipline of Spirituality, clarifies this thesis's disciplinary location. A research on a cult, for example, may require discussions which are "rhetorical structure, psychological and sociological characteristics, or cultural heritage" (Frohlich, 2001: 71). When these discussions *became the central to the research*, the research is shifting away from Discipline of Spirituality and its disciplinary location, which can be Psychology, Sociology or Cultural Studies, becomes Spiritual Discipline. These two, Discipline of Spirituality and Spiritual Discipline are not the same.

Spirituality now became an academic topic and the increasing quests over what spirituality means and how the study of spirituality relates to lived experience of the faiths can be discussed in the discipline (Schneiders, 1989: 676).<sup>31</sup> Since no 'generic spirituality' exists because of its nature as lived experience, her suggestion is determining what 'spirituality' means can be possibly done by learning the actual life project of the individual (Schneiders, 1989).

In studying spirituality, to obtain detailed descriptions, understanding the phenomenon on its own terms is essential rather than prescribing and evaluating the experience (Schneiders, 1986). Such an attempt can thus be multi-disciplinary and cross-cultural because it requires an inclusive and holistic approach to the subject (Schneiders, 1986). In addition, the study of spirituality requires the researcher's reflexivity to understand the subject as it involves concrete individuals rather than classes (Schneiders, 1986). Hence, the objective relies on the researcher's interpretation and the validity of it depends on his or her ways of understanding the subject rather than on statistics. In order to study the development of

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<sup>31</sup> The readers of the present thesis must recognise the rapid developments of academics. Back in 1993, the opening paragraph of one of innovative mediation journals had to begin stating that some may doubt Mediation was an independent, academic discipline (see Saposnek, 1993a: 1). Nearly 30 years on since, no one would wonder if Mediation is an academic field (see for instance, Georgakopoulos, 2017; Moore, 2014; Roberts and Palmer, 2005).

spirituality in Japan with a focus on its usage in the context of mediation, the author's personal background will contribute to maximising such reflexivity.

Although the study of spirituality is now an independent discipline and no longer the subject of theological research (Hense and Maas, 2011: 1), the relationship between spirituality and theology is still strong (for instance, see discussions by Plattig, 2011; Waaijman, 2011). In fact, Sheldrake (1999: 166) observes the relationship of the two as “[t]heology disconnected from spirituality becomes abstract and disengaged. Spirituality cut adrift from theology loses touch with the ‘Great Tradition’ of faith”. Spirituality also maintains the boundary for the argument about who God is, although it does not answer the question (Lough, 1978: 4). When the study of spirituality reserves its independent status as an academic discipline (Schneiders, 1986: 272), the best described relationship of spirituality with theology seems to be “a disciplinary partner – not as a “subdiscipline”” of it (Wolfteich, 2012: 332-333).

For Principe (1983: 137) who considered spirituality as a common arena for both Christians and non-Christians, there are three levels of spirituality. The first is “a level of the lived quality of a person” and “the way some person understood and lived, within his or her historical context, a chosen religious ideal in sensitivity to the realm of the spirit or the transcendent” (Principe, 1983: 135). At this level, there are various fields of human expressions and social behaviours and one of them is justice and peace (Van den Hoogen, 2014: 5), from which mediation has never been distanced and on the contrary is very much interconnected (Lopez, 2017: 389). The second is, “the *foundation of a teaching about the lived reality*” including doctrine formulation (Principe, 1983: 136 emphasis in the original), and the third is, “the study of various doctrines or traditions (second level) or as the analysis of different practices and examples (first level)” (Principe, 1985: 137). At this third level, there are various opinions about what spirituality means, depending on how scholars understand the term (Principe, 1985: 137). By applying Principe's three levels of spirituality, the present thesis explores the notion of spirituality in the Japanese-speaking mediation context at the third level, while mediators' voices may well be at the first and perhaps second levels.

Principe (1983:138, citing Bouyer, 1963) further articulated that, to study spirituality at the third level, the whole context, including the person's, group's or “tradition's theological and



religious attitudes” as well as “psychological, historical, anthropological, sociological, philosophical, linguistic and other influences”, which exist as a branch of religious studies, should be applied to the area of spirituality. However, he then contested this broad perspective in the analysis of spirituality because such an approach would turn the analysis of spirituality into the analysis of religious sensibility, religion, religious consciousness or mentalities. In his view, spirituality indicates one’s “living a faith or commitment that concern his or her striving to attain the highest ideal or goal” (Principe, 1983: 139) and such a spiritual ideal and striving are not necessarily always influenced by, or may sometimes even be opposed to, religion, religious life or religious practice.

There has been an academic attempt to generate a common definition across some of academic disciplines by cross-referencing their established definitions of spirituality (for example, de Souza, 2016). Such cross-referencing is possible only when each and many fields have formed their own definition. There are many publications on ‘spirituality’ defining what ‘spirituality’ means in various academic disciplines.<sup>32</sup> This fact seemingly confirms Principe’s view. The academic interests go beyond just defining what ‘spirituality’ means. Scholars and researchers of those disciplines have thus far carried out empirical research on their concepts of spirituality and some have even made attempts to apply their findings in practice. For example, in psychology, William James (1902) initially contributed towards detaching the term ‘spirituality’ from institutionalised religions. Nearly a hundred years on, the discipline of psychology has steadily been developing its own definition of ‘spirituality’ without relying on other disciplines and the definition is now often used in the context of ‘spiritual, but not religious’ (for example, see Elkins, 1998) based on accumulating observational evidence.

However, academic researchers in psychology still complain about a lack of consensus in its disciplinary discourse when discussing the practical applications of ‘spirituality’ in that field’s research (Vieten, et al. 2013). Despite such a status quo, the present thesis still observes the practicality of the term as developed in psychology, regardless of whether it from one

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<sup>32</sup> Although listing all of those disciplines is not possible as the numbers are too large, those include Education (Speck, 2005; Watson, 2003), Health Care including Nursing and Psychiatry (Aten and Leach, 2009; Egan et al., 2011; Mayers and Johnston, 2008; McBrien, 2005; Powell, 2002 and 2007; Reinert and Koenig, 2013; Tanyi, 2002; Young and Koopsen, 2011), Social Work (Coholic, 2003 and 2005; Groen, Coholic, and Graham, 2012; Senreich, 2013), Psychology (Benefiel, Fry, and Geigle, 2014; Ellison and Smith, 1991; James, W. 1902; Ledbetter et al., 1991; Miller, 2004), or Psychotherapy (Maher and Hunt, 1993; Sperry, 2011; West, 2000 and 2009).

research to another is stable because such development can be traced to the sheer accumulation of debates on what is meant by the term since James (1902). In a similar manner, Nursing and Health Care have been trying to generate their own definition of the term 'spirituality' (for example, Egan et al., 2011; Tanyi, 2002). As mentioned earlier, in Japanese research, Horie (2019) conducted a research establishing meanings of transliterated spirituality in Psychology and Religious Studies.

In the field of Mediation, its common definition seems not yet to have been established. The present thesis analyses what the term spiritual or spirituality conveys in the mediation context, with a focus on the Japanese-speaking mediation context. Accordingly, the main sources for this analysis is work by Lois Gold and Mark S. Umbreit. Their publications are, at the time of this research being conducted, the only resources on the topic being translated into the Japanese language. These two authors' views are then considered by referring to other authors on the topic, to develop a pragmatic understanding of the notion.

In conducting its analysis on definitions of the term spiritual or spirituality in the context of mediation, the present thesis aims to position itself in the "space for an approach which understands the culture [of mediation] as mutualist, inter-subjective and mutable, and spirituality as the capacity of [mediators] to create or perhaps discover value and meaning" of their mediation practice (King, 1996: 350). That is because, "one way of understanding spirituality is within the changing mutualist interactions of persons who create and recreate transformation visions of life in the very flow and untidiness of our experience" (King, 1996: 350). Once such a definition is formed, the present thesis then articulates whether the transliterations of the terms or the translation *seishin* conveys the accurate meaning originally intended.

Waaajman (2002) described spirituality as, "the divine-human relational process as transformation". Similarly, the present thesis which is concerned with spirituality in the context of Japanese mediation, views 'spirituality' arising in the context of mediation as people's lived experiences of the real world. Within this view, the last yet not least important query left here is to establish the nature of the relationship between 'spirituality' as used in the context of Japanese-speaking mediation and religion or religiosity. This is especially so given the complex relationship between the two as highlighted by Allport's (1950) two

concepts of intrinsic and extrinsic religion and Selvam's (2015: 136 emphasis original) additional two matrices which are "*spirituality of quest*" and a "*secular' worldview*". Various translations of the terms 'spiritual' or 'spirituality' exist in the Japanese language and the syncretistic and polytheistic attitudes of people of Japan, which may be vague and implicit in terms of their general awareness,<sup>33</sup> will impact on this relationship. The findings of the present thesis hopefully contribute to clarifying the relationship by conducting its research in the study of spirituality.

The following section discusses the methodological approaches and chosen methodology of this research.

## 1.4 Methodological approaches and applied methodology

The nature of the study of spirituality makes it difficult to limit its methodology solely to, for example, theology (Van den Hoogen, 2014). This difficulty is the reason why the study of spirituality is now an independent discipline which should be described its approach as 'multiple-disciplinary' rather than 'interdisciplinary' or 'multidisciplinary', although it is referred to in different disciplines such as religious studies, sociology, or theology for instance (Principe, 1983; Schneiders, 1986 and 1989; Sheldrake, 1999; Shimazono, 2012; Van den Hoogen, 2014; Waaijman, 2002; Wolfteich, 2012). In such a disciplinary field, the present thesis uses textual analysis by taking a hermeneutic phenomenological approach to consider the phenomenon of the word 'spiritual' or 'spirituality' as used in the context of mediation, albeit in a secular way, which can be recognised as religiously and non-religiously (Van den Hoogen, 2011 and 2014).<sup>34</sup>

### 1.4.1 Multiple disciplinary approach

In relation to predetermined research outcomes, Hirano (2015) illustrated her own difficulties with setting an unbiased research purpose in an academic discipline. In religious studies, for example, descriptive research extracts religiosity from various study subjects which have their own respective characteristics and contexts; this can lead to biased

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<sup>33</sup> As mentioned in the section 1.1 above by referring to scholars such as Ama (1996/2005) and Lewis (2013).

<sup>34</sup> Although hermeneutics were traditionally applied to historical texts including the Bible and classic texts, since 15<sup>th</sup> century on, it has been applied widely in the fields such as history, law, philosophy, and, as a result, extended its study materials to human behaviour, history, nature, and "all existents insofar as people see meaning in them and want to appropriate that meaning" (Waaijman, 2011: 137).

research results if the researcher only views the research purpose from their own predetermined religious point of view (Hirano, 2015). Such an approach can be etic yet cannot avoid researchers' biases toward their own data analysis and arguments based on the findings. In other words, the study's results may be predetermined by the research purpose. This approach also cannot avoid referring to issues addressed in a variety of disciplines due to the cross-disciplinary nature of the phenomenon (Inagaki, 2007; Hense, 2011; Ito, 2003: 158-159; Kobayashi, 2007; Matsumoto, 2016; Principe, 1983; Sakurai, 2009; Shimazono, 2007 and 2012: 46).

The academic approach in studies conducted in Discipline of Spirituality can thus be described as multidisciplinary or interdisciplinary (Schneiders, 1986; Sheldrake, 1999). This is illustrated well by, for example, a research by Ohkado (2011).<sup>35</sup> For the present thesis to understand Japanese people's religiosity, which may or may not include transliterated spirituality (Miyajima, 2006: 136 by citing Yumiyama, 2006: 91), scholars strongly emphasise the importance of cross-sectional, multiple disciplinary approaches to the topic by closely researching different areas such as politics, peacebuilding, education, law, economy and medicine (Inagaki, 2007; Ito, 2003: 158-159; Kobayashi, 2007; Matsumoto, 2016; Sakurai, 2009; Shimazono, 2007 and 2012: 46).

Those scholars view transliterated spirituality as an indication of the globalised, multi-dimensional nature of religiosity.<sup>36</sup> The present thesis adds a new area of inquiry, mediation, to the pool of those disciplines, yet must also discuss whether spirituality used in the context of mediation is the same as religiosity, since this is a central issue for a profession in which there are already faith-based mediation models, mediation applied within the framework of religious doctrines.

As an independent academic discipline, thus, spirituality requires references to other disciplines because 'spirituality' is a multidimensional phenomenon which exists within

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<sup>35</sup> Ohkado (2011) described his research as interdisciplinary by citing the definition of 'spirituality' from Elkins, et al. (1988) on humanistic phenomenological spirituality and being published in the *Journal of Humanistic Psychology*, as well as the World Health Organisation. Elkins et al. (1988) conducted empirical research in psychology by collecting data from teaching staff and students of the Graduate School of Education and Psychology of Pepperdine University in the USA and presented a humanistic definition of spirituality in accordance with psychologists, including Abraham Maslow and William James. However, Ohkado's (2011) research pertains to reincarnation, hypnosis and xenoglossy rather than Humanistic Psychology or Health Care.

<sup>36</sup> As mentioned in 1.1 above.

different fields (Selvam, 2013; Shimazono, 2012). When discussing multidisciplinary or interdisciplinary approaches, Choi and Pak (2006: 355) defined the former as drawing knowledge from other disciplines for the purpose of contrasts yet staying in the same set disciplinary boundaries; the latter is described as integrating two or more areas of knowledge to form a new discipline. It is wise not to use terminologies such as multi- or interdisciplinary, which describe the “varying degree of the same continuum” of multi disciplines in the research approach, when the *nature* of the research applying multiple disciplines is not clear (Choi and Pak, 2006). Instead, a multiple disciplinary approach, which is effective when addressing complex, real world problems, is recommended as better suited to indicate the particular nature of such research (Choi and Pak, 2006).

Hense (2011: 14), who has carried out careful examinations of multiple research on spiritualities, has concluded that at present minor components and forms of spirituality are embedded in the social aspect of language. Taking this into consideration, the present thesis analyses what Lois Gold and Mark S. Umbreit as mediators mean when they use the terms spiritual or spirituality in the English language, as a way to understand the background and consequences of the Japanese transliteration of those terms already introduced to the Japanese-speaking mediation context. Although the need to consider spirituality cross-sectionally by referring to multiple disciplines is recognised as important (Inagaki, 2007; Ito, 2003: 158-159; Kobayashi, 2007; Matsumoto, 2016; Sakurai, 2009; Shimazono, 2007 and 2012: 46), admittedly, the *nature* of such a research is often not looked into and thus remains unclear. By following Choi and Pak’s suggestion (2006), therefore, this research, which is conducted in the field of spirituality, takes a ‘multiple disciplinary’ approach to understanding and articulating ‘spirituality’ in Japan’s mediation context. By adopting a multiple disciplinary approach, this research positions itself alongside these Japanese scholars whose research concerning spirituality.

#### **1.4.2 Hermeneutic phenomenology as a research approach**

Due to the fluid, flexible yet distinct nature of the discipline, a suitable presupposition for the study of spirituality is hermeneutical (Schneiders, 1986: 273). In Waaijman’s (2011: 136) words, “[w]hen important texts from the past have become unintelligible, people appeal to hermeneutics”. Furthermore, as the study of spirituality concerns phenomena arising from people’s lived experience and attitudes (Van den Hoogen, 2014; Sheldrake, 1999: 168), phenomenology which enhances the study of spirituality significantly (see for example,

Mommaers and Van Bragt, 1995), needs to be used combined with hermeneutics, which comprises historical perspectives and thus will allow interests promoted in the past to be identified as distinct from those of the present (Szocik, 2005).

When being combined with hermeneutics, phenomenology sets a necessary framework or common background, which may be summarised as an approach to the research subjects, for such research (Szocik, 2005; Van den Hoogen, 2014). Phenomenology makes following three fundamental contributions to hermeneutics; it clarifies the process of reading; it provides new insights in the interpretation of reading; and it explores the sense-making process beyond the written language (Waaijman, 2011: 137). Phenomenological concepts with which the present thesis deals are expressed through writings by mediators published in the English language. These publications are based on lived experience, which can fall into the category of 'lived spirituality' (Van den Hoogen, 2014). The present thesis is unique in using heuristic phenomenology to textually analyse publications by Lois Gold and Mark S. Umbreit,<sup>37</sup> taking their written words on spirituality as texts in order to observe actual moments of their 'lived spirituality'. In approaching their 'spiritual' experiences in the context of mediation in a more naturalistic manner, the present thesis aims to minimise the negative research impacts caused by potential research bias on those authors.

The combination of hermeneutics and phenomenology allows this research to conduct its analysis by using the logic of question and answer which observes the whole, focuses on the part and returns to the whole view, to generate understanding (Byrne, 2001; Gadamer, 1975; Weinsheimer, 1985). Thus, the findings of the analysis are organised in terms of themes or categories (Byrne, 2001), which are outlined in Chapter 3. In fact, this combination was applied in a study by Jones (2009), who conducted interviews with mediators to generate a lived definition of spirituality among her participants. Similarly, Mayer and Boness (2011) applied the same combination to conduct their qualitative, empirical research to understand cross-cultural conflicts and their management through mediation in ecclesiastical organisations in Tanzania.<sup>38</sup>

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<sup>37</sup> This research method, textual analysis, is discussed in the next subsection.

<sup>38</sup> The detailed reviews of Jones (2009) in addition to Mayer and Boness (2011) are in Chapter 2.

By taking hermeneutical phenomenology, the present thesis understands and brings various ways of experiencing the target phenomenon, which is to use spirituality in the context of mediation, and establishes a consensus, albeit limited to a specific milieu (Annells,1996). Such research requires fixing the research context as a rigid framework. This naturally overlaps with what Van den Hoogen (2014) outlined as three important lines of analyses in the theological interpretation of spirituality. They are context, configuration, and dynamism of a phenomenon, in order to emphasise how such a multiple disciplinary approach is conducted. The solid research context, which was set up as a study of spirituality arising in the English-speaking mediation in the previous and current sections, is important because spirituality as a lived experience of individuals takes place within a framework (Sheldrake, 1999: 168). According to la Cour, Ausker, and Hvidt (2012), who researched how the term spirituality is understood and used in relation to health issues, the term should be viewed as something which is a context-bound experience of relatedness to a vertical transcendent reality.

### **1.4.3 Textual analysis as a research method**

The present thesis bases its observations on a textual analysis of publications about mediation written by Lois Gold and Mark S. Umbreit and the use of spiritual or spirituality in these texts. The study of spirituality has long used textual analysis, focusing on the linguistic articulation of spirituality because such a focus can reveal a variety of human experiences in which spirituality is contained (Van den Hoogen, 2011 and 2014). This research method should not be confused with contents analysis, which the present thesis avoids using by reviewing research conducted in Japan on discovering the meaning of 'awakening the transliterated spirituality' (Nakatani, Shimada and Ohigashi, 2013).<sup>39</sup>

In other words, spirituality is something embedded in human experiences so deeply that it does not have its own distinct form yet underlies one's process of realising one's own perceived values (Van den Hoogen, 2014). This explains the background of the latest study by Horie (2019) who examined each definition used in the publication in Japanese and English in the fields of psychology and religious studies in order to form a meaning of transliterated spirituality to be used in the Japanese-speaking context.

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<sup>39</sup> This study by Nakatani, Shimada and Ohigashi (2013) is included in the literature review section in Chapter 2.

When considering the term spirituality as a symbolic metaphor of expressing our world's transformation and metamorphosis, the meaning of the term spirituality changes depending on who uses the term. As King (1996: 345) points out, its flexibility or ambiguity allows its users to both reflect on and challenge institutionalised thoughts such as religions. For instance, in an article on Ethiopian traditional mediation used by Ethiopian immigrants in Israel, Bobrowski, Timor and Ronel (2017, cited Walker, 2001b) emphasise the spiritual element of mediation. In this instance, the authors use the terms 'religious' and 'spiritual' interchangeably even though the cited article of Walker (2001b) does not do so. This illustrates, at this point in the development of spirituality in the context of mediation as an academic discipline, how the terms spiritual or spirituality are used rather liberally to express opinions and views, drawing on earlier publications that use the same terms, without acknowledging that the contextual meaning may be different.

Textual analysis allows this research to closely investigate such variances in the usage of those terms by focusing on two main authors, Lois Gold and Mark S. Umbreit. In Van den Hoogen's (2014) outline, this is expressed as the configuration of a phenomenon. Using the term spirituality should be done with caution, paying close attention to the creativity of humans in time and history because, "a definition of spirituality will always be influenced by the purpose behind the usage" (King, 1996: 349). Terms such as "secularisation, materialism, scientism and even religion itself can become blunt tools for catching the complex inner-subjective and creative ways in which humans weave, construct and challenge meaning and value" (King, 1996: 350), and the same applies to the term spirituality.

The present thesis argues, however, that it may be fallacious to consider that the term does not acquire a commonality in its meaning across individuals. Our inner lives are shaped through communication using common languages and indeed, as King (1996: 350) acknowledges, in and through interpersonal relationships which give our inner lives shared, common meanings. Again, in Van den Hoogen's (2014) interpretation, this illustrates and explains the dynamism of the phenomena. Hence, defining spirituality based on what a group of people mean by the term or how they use the term, should be feasible within a narrow and limited milieu. In order to stay focused on its aim, the present thesis focuses on those two authors to establish what they mean when they use the terms spiritual or spirituality in the mediation context. This does not, however, ignore the voices of other



mediators who use these terms in their publications. On the contrary, these other voices are used to develop a fuller, more comprehensive understanding of those two authors to help in the task of analysing the suitability of the currently applied Japanese translations for those English terms.

There are additional reasons why this research applies textual analysis as a research method. Textual analysis allows researchers to, “interpret texts (...) in order to try and obtain a sense of the ways in which, in particular cultures at particular times, people make sense of the world around them” (McKee, 2003: 1) because “the ways of making sense of the world employed” can be culturally dependent and specific (McKee, 2003: 4 and 67). Textual analysis also enables a focus on connotative meanings by following an abductive research strategy (Bauer, Bicquelet, and Suerdem, 2014: xxviii; Blaikie, 2007: 88). McKee (2003: 1) explains textual analysis as the researcher making, “an educated guess at some of the most likely interpretations that might be made of that text”.<sup>40</sup> Any means of communication that produces an interpretation of meanings can be a text (Fairclough, 2004: 3; McKee, 2003: 4). Any instance of language in any medium used, in a meaning-making process and functioning in a particular context is categorised as a text (Halliday and Matthiessen, 2014: 3).

This kind of interpretivism applied to textual analysis, “looks for culturally derived and historically situated interpretations of the social life-world” (Bryman, 2012: 399; Crotty, 1988: 67). In the present thesis, the texts to be analysed are academic publications in English, predominantly written by Lois Gold and Mark S. Umbreit and pertaining to the field of mediation. However, there are many articles that use the terms spiritual or spirituality published by other authors whose mediation practice is based in countries such as the Australia, China, Ethiopia, India, New Zealand, Northern Ireland, Sierra Leone, Taiwan, Tanzania, Turkey, and the USA. Karcic (2006: 192) proposes that textual analysis is conducted by:

*breaking down of something into its component parts. Consequently, to analyse a text means to break it down into its component parts, to examine them, and to offer an interpretation of the component parts as well as of the whole. By means of interpretation we are able to go beyond the obvious meaning of the text and to read the implied meaning or sub-text.*

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<sup>40</sup> This ‘educated guess’ suggested by McKee (2003) was interpreted and understood by the author of the present thesis as perhaps something similar to an ‘academic common sense’. In other words, the interpretation used and applied in textual analysis of one researcher would likely be supported and agreed by the audiences whose academic backgrounds, hence education, are similar to the researcher.

Once those two authors' publications are broken down into precepts in terms of each component of their meaning of spirituality, other authors' publications are thus used to examine, discuss and argue those precepts. By using a hermeneutic phenomenological approach, the present thesis expects to "grasp the unknown whole from the known parts" (Blaikie, 2007: 107).

Through such interpretation, the hermeneutic approach enables the present thesis to examine whether the transliterated spirituality or *seishin* conveys what these two authors mean by the English term spirituality in the mediation context. Such analysis aims to generate explicit meanings and interpretations of those authors' own understandings which may not be clear to the authors themselves. As Crotty (1988: 91) has argued, "determination of meaning is a matter of practical judgment and common sense, not just abstract theorising" and, consequently, the hermeneutic mode of understanding must be situated culturally as well as historically.

Textual analysis aids in the understanding of "different cultures' sense-making practices" when "the physical surroundings may look similar, but the way in which the culture makes sense of them is very different" because the outcomes of the interpretation will differ depending on the researcher's approach to the practices (McKee, 2003: 12). This means that the researcher's reflexivity, again, will benefit the generation of data through textual analysis as well as to analyse the suitability and consequences of the currently used translations for the English word 'spirituality' in the context of mediation.

The following section discusses the limitations of the present thesis.

## **1.5 Limitations of this research**

### **1.5.1 Objectivity and subjectivity**

Some of the limitations of the present thesis depend on whether objectivity is considered to be a necessary factor in the validity and reliability of its findings. Similarly, validity and reliability are measured in different ways depending on the applied theoretical perspectives and principles (Mason, 1996: 21).

Objectivism considers “meaning, and therefore meaningful reality, exists as such apart from the operation of any consciousness” (Crotty, 1988: 8). In positivist research which applies objectivism, the research findings are expected to retain a certain degree of validity, which is, “the capacity of research techniques to encapsulate the characteristics of the concepts being studied” (Payne and Payne, 2004: 233), and reliability, which is the consistency of the research findings (Bryman, 2012: 167), so to gauge a concept really measures that concept (Bryman, 2012: 171). If ‘objectivity’ exists and can be achieved free from the interpreter’s reflexivity, lack of objectivity should be counted as a limitation of the present thesis because textual analysis cannot be conducted without the author interpreting the contents of texts. Indeed, there is “no such thing as an ‘objective’ analysis of text, if by that we mean an analysis which simply describes what is ‘there’ in the text without being ‘biased’ by the ‘subjectivity’ of the analyst” (Fairclough, 2004: 14-15).

On this basis, a qualitative approach that conducts textual analysis within a hermeneutic perspective cannot be objective, in the positivist sense, “the principle drawn from positivism that [...] researchers should remain distanced from what they study so findings depend on the nature of what was studied rather than on the personality, beliefs and values of the researcher” (Payne and Payne, 2004: 152). Findings that arise from qualitative research can also be criticised for being too impressionistic and therefore subjective (Bryman, 2012: 405-406). Furthermore, the results or findings that are generated by qualitative research are difficult to replicate and therefore cannot be generalised. Another limitation is that such research can be seen to lack transparency regarding, “what the researcher actually did and how he or she arrived at the study’s conclusions” (Bryman, 2012: 406). However, this thesis is not situated within a positivist framework but within a constructivist one.

This study positions itself within constructionism and as a piece of qualitative research, is embedded in an interpretivist paradigm (Crotty, 1988: 9), although it would be unwise to posit a simple division between qualitative and quantitative research based on their epistemological presumptions (Crotty, 1988: 15). Although constructionism as an epistemological foundation of interpretivism does not necessarily mean to be subjective, in interpretivism, “subjectivity is valued; there is acknowledgement that humans are incapable of total objectivity because they are situated in a reality constructed by subjective experiences” (Ajjawi and Higgs, 2007: 614). Because it aims to identify the ‘collective

generation' of meaning (Crotty, 1988: 52 and 58), what is discovered through interpretivist research methods such as textual analysis, is subject to challenge with regards to whether the authors are telling the truth, whether this 'truth' would be true for others, and whether, therefore, the research results can be thought of as universal (Seidman, 1998: 17). In order to provide as objective an analysis as possible, the present thesis analyses the findings of the textual analysis by referring to other articles written on spirituality and mediation in the English language.

Researcher reflexivity, another characteristic of this research, introduces an inherent element of bias into analysis of the data (Blaikie, 2007: 188). Firstly, the interpreted text will to some extent be influenced by the researcher's reflexivity. Furthermore, the findings based on the interpretation may not be accepted by some readers if the one's backgrounds are different from what the research discussed. On the other hand, reflexivity can enable a 'collective generation' of meaning and the interpretivist research findings can become a shared interest within a certain group of people, such as practitioners in a certain field, without acquiring 'objectivity' in a universal sense. In this case, the findings of the present thesis should benefit mediators working with Japanese speaking clients and the clients themselves by clarifying the meanings of the English terms spiritual and spirituality as currently translated by transliterate spirituality and *seishin* in the Japanese-speaking mediation context.

In using textual analysis to discover the meanings of the terms spiritual or spirituality used by the selected mediators, namely Lois Gold and Mark S. Umbreit, the data analysis may be viewed as subjective. However, at the same time as this type of analysis cannot be carried out without involving the subjectivity, the researcher's subjectivity becomes central to achieving the aims of the research.

### **1.5.2 Limited resources**

Mediators and academic researchers on mediation have not collaborated closely enough to have produced thus far many practical implications of academic studies (Rifkin, 1994; Roberts, 2014; Susskind and Susskind, 2008: 201). This has long been identified as one of the major challenges of the profession (Nudler, 1993: 3; Currie, 1998: 70). Legislatures of Japan also admit that there is a shortage of academic data on mediation practice (HoR, 2004b: 3). In addition, there is limited information available on transliterated spirituality from previous

studies (Ama, 1996; Nishimura, 2018). The second limitation is thus the significant dearth of opportunities to integrate the practical and academic opinions about spirituality, which makes it “impossible to use a comprehensive format and study all [...] at the same time” (Hense, 2011: 12), and mediation practice.

One of the aims of the present thesis is to clarify whether current Japanese translations for the English terms spiritual or spirituality accurately reflect their meaning in the Japanese-speaking mediation context as intended by Lois Gold and Mark S. Umbreit’s work on mediation. The findings of the present thesis will therefore help future research by providing the meaning of those terms so that enable them, for example, to reach out to thus far unpublished voices of mediators who may or may not use such terms. This study could also be used as a basis for future research to investigate whether the notion of spirituality used in the context of Japanese-speaking mediation is important and supported by or irrelevant and rejected by its users, including mediators and prospective clients, and if so, why. Overall, the present thesis contributes to the growing body of work and available data regarding spirituality and mediation.

### **1.5.3 Findings and discussions in a limited milieu**

The present thesis does not intend to deny opinions put forward by scholars such as Fiss (1984; 1985) who has argued against the effectiveness of mediation and believes litigation to be the most suitable method to pursue justice. Litigation should function as it is and be available to any citizens within its formal justice system. Considering the aims of this research, the voices, that have contended that legal practice such as lawyering and making decisions in courts can also be said to contain a ‘spiritual’ dimension (for instance, see Hall, 2010 and 2005), have therefore been excluded from the present study.

The resources used in the textual analysis presented in this thesis are the writings of Lois Gold and Mark S. Umbreit that make reference to the terms spiritual or spirituality in the English language, writings that are publicly available to those who understand the language. While their views do not represent the opinions of all English-speaking mediators,<sup>41</sup> their publications provide data that can be analysed as part of investigating the meanings of the English terms spiritual and spirituality as used by those two authors. Although their views

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<sup>41</sup> Especially, those of whom have devoted their time to providing mediation services and to solving disputes instead of spending it on academic developments of mediation.

and meanings may be categorised as a minority given the fact not many mediators refer to the terms spiritual and spirituality in their academic publications, the voices of such minority mediators are still significant and important in the present thesis concerning the potential impact of the Japanese translations of those terms on the Japanese-speaking mediation context.

The present thesis does not claim that its findings are applicable to all settings in which mediation takes place (see for instance, Hense, 2011). Studies such as Schwartz (1992), which sought to identify cross-cultural values that are important to human behaviour in investigating spirituality, appear to be weak as they only focus on certain aspects of spirituality and ignore others (Hense, 2011). Articles about mediation that make reference to the terms spiritual or spirituality are published in English all over the world. For example, hard copies of Umbreit's work have been published in multiple countries including Northern Ireland, the UK and the USA. On the other hand, by referring to Japanese, in some senses the present thesis is predominantly limited to Japanese society as there is no other country that uses the language as its official one. However, such Japanese-speaking communities do exist in other countries. Although by referring to the published resources of Lois Gold and Mark S Umbreit, the arguments presented in this thesis are not restricted to one English speaking country. It should be noted that the research investigates issues that will be relevant to relatively small interest groups.

Despite these limitations, the present thesis examines whether transliterated spirituality and *seishin* are best suited to convey the meanings of those English terms as used in a mediation context in Japan. Because of the nature of the term spirituality, that has been described as having, "a certain fluidity, not to say vagueness, in the use of the term" (Principe, 1985; 129), one of the aims of the research is to generate "a description of different spiritualities, a presentation that would be derived from the sources, widely conceived that have been studied [...and then make] comparison of different spiritualities" (Principe, 1983: 140). In the present thesis, such a comparison is made within the Japanese-speaking mediation context by focusing on *seishin*, *reisei* and their succeeding word, transliterated spirituality (Horie, 2009). Such a comparison is achieved by generating the meanings of the English term spiritual or spirituality in the work of two practicing mediators.

To conclude this chapter, the next section gives an overview of what is discussed in the subsequent chapters.

## 1.6 Structure of the thesis

The present thesis develops its arguments discussing the objectives as highlighted in the section 1.2 above in each chapter.

To define and clarify what transliterated spirituality means in Japan, the first section of Chapter 2 reviews Japanese academic opinions on spirituality to establish the directions for the present thesis to develop its arguments in relation to spirituality used in the context of mediation. This section subsequently raises some concerns and outlines how this research overcomes those concerns through a review on previous research conducted in Japan in relation to spirituality or on spirituality used in the English-speaking mediation context, albeit briefly due to the shortage of resources. Next, in the section of 2.3, the meanings of transliterated spirituality are defined and clarified. The following subsection more specifically discusses the meanings of transliterated spirituality used in peacebuilding, a field that is a close neighbour of mediation. By achieving objective one, this chapter highlights that translating from English to Japanese is a complex process, particularly with regards to the use of transliterated spirituality as an equivalent of the English term spirituality.

In Chapter 3, the textual analysis reveals what Lois Gold and Mark S. Umbreit mean by spiritual or spirituality in the context of mediation. This meets the second objective. The texts chosen to generate the core precepts were translated into Japanese and published in Japan. In order to understand their arguments pragmatically, this chapter then refers to other publications under each of those core precepts and articulates the meanings in the English mediation context. For the purpose of cross-referencing, more than 32 additional articles were identified that have been published on the topic in the English language written by various researchers and scholars of mediation in different countries such as Australia, China, Ethiopia, India, New Zealand, Sierra Leone, Taiwan, Tanzania, Turkey in addition to Northern Ireland, the UK, and the USA. This chapter articulates any important remarks and issues arising from the publications by Lois Gold and Mark S. Umbreit, so that the subsequent

chapters, once any issues being clarified in Chapter 4, can use the precepts to develop its arguments in the context of Japanese-speaking mediation.

First to discuss in Chapter 4 are as following; how mediation practice as described using the terms spiritual or spirituality might differ from the transformative model of mediation and whether and how the usage of those terms differs from the transformation that is referred to in that model. The second point is whether the application of those terms in the context of mediation is an indication of mysticism, which is described against the background of spirituality but conflicts with rationality if spirituality is understood as mysticism (Waaajman, 2002). Establishing whether spirituality as used by Gold and Umbreit is the same as mysticism is important as it has implications for mediation in the Japanese context in which mediators are assumed to work with clients rationally. In addition, such an argument enables this research to identify whether the term spirituality used by Gold and Umbreit is contemporary or traditional one. If the latter, their references might be influenced by, or as a result of, the world's religions (Jespers, 2011). Overall, Chapters 3 and 4 offer a deeper understanding of what the two mediators wish to convey in using those terms, thereby meeting the research's third objective.

The notion of using spirituality in the context of mediation was introduced to Japan in 2007 through the use of transliterated spirituality and *seishin*. While transliterated spirituality appeared only in the late 1970s and has been used more frequently since the 1990s (Horie, 2003, 2015 and 2018; Shimazono, 2007a, 2007b and 2012), mediation practice in Japan was established long before then. By understanding the two authors' notion of spirituality in the context of mediation, Chapter 5 thus examines the generated *meanings* of spirituality in the Japanese-speaking mediation context. This is to meet the fourth objective. Such discussions take place by analysing whether any of the precepts intersect with Japan's mediation context. The analysis is conducted by discussing the development of mediation up to and including the recent enactment of legislation in 2007, the ADR Act 2004 which both certifies or disqualifies certain groups of 'mediators.

In order to understand the status quo of mediation in contemporary Japan, a case study in the section 5.3 articulates the expectations of people in Japan who experience disputes. This enables the present thesis to investigate whether any of the users' expectations in the



Japanese-speaking mediation context have been fulfilled by introducing the notion of spirituality to the context in 2007. This chapter seeks to identify whether the notion of spirituality introduced to the context of Japanese-speaking mediation has made a useful contribution or has simply created controversy.

Once the meaning of the notion has been thoroughly examined in the Japanese-speaking mediation context, Chapter 6 fulfils the fifth objective by examining the suitability of current translations. The reasons why the currently applied translations were selected despite existing issues as highlighted in Chapter 2, are discussed. This chapter then contemplates whether the currently applied Japanese transliterations of those terms convey the generated meaning of 'spirituality' or 'spiritual' in the context of mediation. Such discussions embrace arguments about whether the audience in Japan, including mediators themselves, understand the usage of those English terms through the translations currently used in the context of Japanese-speaking mediation.

The final section in Chapter 6, depending on the earlier discussion, considers whether to use *reisei* as a translation of 'spirituality' in the mediation context instead of the currently applied transliterated spirituality or *seishin*. As discussed earlier in this chapter, transliterated spirituality has been used instead of the words *seishin* or *reisei* although *seishin* and *reisei* do not mean the same in the Japanese language (Horie, 2003; Suzuki, 1944/1972).

To conclude the discussion developed in this thesis, Chapter 7 summarises whether it has provoked any controversies and the overall contributions that the terms spiritual or spirituality have made in the Japanese-speaking mediation context.

Chapter 8 concludes the thesis by making recommendations for further research. It suggests that the notion of using spirituality in the Japanese-speaking mediation context as well as a more generic academic investigation of spirituality in Japan, need further exploration. The research findings of the present thesis contribute to deepening the understanding and observation of Japanese transliterated spirituality and surrounding issues. As a result, the present thesis enriches the practice of mediation for Japanese speaking mediators and also contributes to their clients making informed decisions regarding their mediation. The

conclusions of the present thesis improve the quality of Japanese-speaking mediation, which is currently exposing both the mediators and clients to the ill-defined terms spiritual or spirituality albeit in translated forms, by providing the meanings of those terms and also suggesting which term of three, transliterated spirituality, *seishin* or *reisei* is better suited to use in the Japanese-speaking mediation context.

## 2 Transliterated spirituality in Japan

### 2.1 Introduction

Chapter 1 gave an overview of the research conducted for the purposes of this thesis, including its context, disciplinary underpinning, and methodological approach. The notion of using transliterated spirituality in Japan's mediation context has a relatively short history, and in other academic fields, these terms have only been researched since the 1990s in Japan (Haga, 2007; Horie, 2003, 2015 and 2018; Shimazono, 2007a, 2007b and 2012). Therefore, it is no surprise that there is no empirical research available pertaining to mediation in Japan that could provide a starting point for the research.

The suitability of *seishin* as a Japanese translation for the English term spirituality used by Lois Gold and Mark S. Umbreit has already been questioned in Chapter 1 by referring to Ando (2012) and Tazaki, Matsuda, and Nakane (2001 and 2002). Although Kashio (2012: i) states *seishinteki* and transliterated spiritual can be used as translations for the English term spiritual, thus far, he has not conducted any empirical studies to support his view. Therefore, arguments regarding the suitability of the term *seishin* as a translation of the English term spirituality in the context of Japanese-speaking mediation needs to be left for the later chapter where the meanings of the English terms spiritual or spirituality in the mediation context will be generated through textual analysis.

Based on the body of work by Japanese scholars in the fields of mediation and spirituality, the first section of this chapter reviews the academic arguments raised in the past 15 years by these scholars in relation to the methodological approaches adopted in spirituality research conducted in Japan. Research into spirituality is evolving rapidly and academic views of spirituality articulated in the early 2000s are already being challenged as outdated (see for instance, Haga, 2007; Horie, 2018; Shimazono, 2007a). Horie (2019) describes this fast expansion and popularity of transliterated spiritual or spirituality among people in Japan, known as a 'spiritual boom' meaning a 'rapid trend of spirituality' (Gaitanidis: 2012), now tailed off.

By using the findings together with the research methods and methodology of the present thesis discussed in Chapter 1, this first section then examines five empirical studies on spirituality. The studies conducted in the context of mediation in the English language are Jones (2009), Mayer and Boness (2011), and Nun (2011). The remaining two, Nakatani, Shimada and Ohigashi (2013) and Horie (2019), are Japanese research, which analysed transliterated spirituality and the English term spirituality albeit in different contexts.

In doing so, the present thesis tries to learn from past studies. The analyses of these studies are also expected to produce a pathway to follow based on academic opinions in the field of spirituality research. By following the path, the present thesis discusses, in the subsequent chapters, the suitability of current Japanese translations for the English term spiritual or spirituality as applied in the context of mediation to discover its contributions to practice and any controversies that have emerged.

The second section discusses two further topics to identify issues arising from introducing transliterated spirituality to the Japanese-speaking mediation context: the usages of transliterated spirituality in Japan and the current status of peacebuilding, one of the professions in which 'spiritual' and 'spirituality' intersect. In Japan, peacebuilding, which is an academic field overlapping mediation although as a profession it is categorised entirely differently (Lederarch, 1997; LeResche, 1993; Zelizer and Chiochetti, 2017), has been using the notion of transliterated spirituality well before its introduction to the mediation context. The discussions in this second section aid the present thesis in overviewing any potential issues, risks and benefits that the Japanese-speaking mediation faces as a result of introducing the notion presented by English-speaking mediators to the context by using transliterated spirituality.<sup>42</sup>

As for the conclusion, the present thesis emphasises the importance of this research concerning transliterated spirituality in Japan's mediation service.

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<sup>42</sup> In Chapter 1, the importance of cross-sectional approach to the topic of spirituality has already highlighted (Inagaki, 2007; Ito, 2003: 158-159; Kobayashi, 2007; Matsumoto, 2016; Sakurai, 2009; Shimazono, 2007a and 2012: 46).

## 2.2 Literature reviews: research into spirituality and transliterated spirituality

### 2.2.1 Academic opinions on research into spirituality published in Japanese

The present thesis has deliberately avoided to position its research in religious studies because the fundamental question, whether transliterated spirituality has anything to do with religion or religiosity in Japan, has not yet been answered definitively (see for instance, Horie, 2018: 141-143; Ito, Kashio, and Yumiyama, 2004; Kasai, 2003; Kashio, 2004 and 2015; Matsuura, 2009; Shimazono, 2007a, 2007b, and 2012). Nonetheless, some religious studies scholars consider that a wide definition of religion includes spirituality (Shimazono, 2012). By contrast, Horie (2009; 2018) argues that transliterated spirituality is systematised by being embedded in institutionalised religion and re-visualised as a result.<sup>43</sup> In his latest research, Horie (2019: 15) concludes that transliterated spirituality includes something essential to religions, yet it is also possible to experience it privately and without belonging to institutionalised religions. Thus, the relationship between transliterated spirituality and religion or religiosity cannot yet be conclusive at this point of academic progress, especially pertaining the context of mediation.

In addition, Japanese academic research in relation to transliterated spirituality has been conducted in many fields other than in religious studies (for example, see Kashio, 2002; 2012; Shimazono, 2007a; and Yuasa, 2003). Researchers choose their research context flexibly because transliterated spirituality has yet to gain sufficient recognition by the general public that would enable it to be identified as a discipline and be defined accordingly (Ito, 2012; Nakagawa, 2012). What is clear at this point is that when mediation is conducted based on specific religious faiths, it can be categorised as faith-based mediation. Faith-based mediation has been defined as mediation in which, “religious creed, objects (i.e. symbols, texts, images, principles etc.) and institutions play an important role” to both the mediators and their clients (Bercovitch and Kadayifci-Orellana, 2009: 185).

Faith-based mediators are those who, “are motivated and inspired by their spiritual and religious traditions, principles, and values to undertake peace work” (Bercovitch and

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<sup>43</sup> This point will be further expanded in section 2.3 below.

Kadayifci-Orellana, 2009: 185), and their faith needs to be shared by their clients. However, mediation offered outside of these faith-based contexts, is one of many fields in which the notion of transliterated spirituality has been introduced through publications since 2007 and shared with the public, yet without a debate about the meaning of the term and a clear definition of what it contributes to this context.

Because of this lack of definition of what is meant by transliterated spirituality, the relationship between spirituality and religion in the Japanese-speaking mediation context is unclear. Ando (2006), a religious studies scholar in Japan, suggests four different descriptions of the relationship between transliterated spirituality and religion: transliterated spirituality includes religion; the two overlap while being partially different; religion contains spirituality; both are entirely different (for similar arguments in Kasai, 2003: 124).

Ando's (2006) fourth category, often encapsulated by the phrase 'spiritual but not religious', would be provocative in the context of mediation because of the faith-based mediation model. This would mean that religious people are not spiritual if applied in the context of mediation, without knowing the meaning of the term. How would mediators who use a faith-based mediation model understand the phrase, 'mediation is spiritual in nature' (Jones, 2009), in the light of the fourth category? Alternatively, had spirituality used in the mediation context been religion, the arguments put forward by Lois Gold and Mark S. Umbreit can become a part of faith-based mediation.

It is important, therefore, to first understand the original text's meaning to translate the English term spirituality into Japanese language to convey its meaning accurately. Similarly, Hirano (2015: 150) lists sociology as another example which faces different relationships between transliterated spirituality and religions. By citing Bourdieu and Wacquant (1992), Hirano (2015) proposes that the social and historical contexts of transliterated spirituality at stake are necessary if and when transliterated spirituality as a research subject may overlap but cannot be fully included in the concept of religiosity. Once establishing such an inclusive, wider research context, the term can be defined and the definition allows studies to draw comparisons between different eras, social contexts or academic disciplines (Hirano, 2015).

Nonetheless, Hirano's approach is valid only when the field of study has developed enough for studies to predict and determine that transliterated spirituality overlaps with religiosity. In other words, Hirano's (2015) approach is possible when and if transliterated spirituality has already acquired its definition in the field. As discussed in Chapter 1, in mediation, the definition or meaning of the English terms spiritual and spirituality has not yet been clearly defined; as a result, transliterated spirituality in this context remains vague in its meaning. Also, as discussed previously, both transliterated spirituality and the English term spirituality, appear cross-sectionally and bear different meanings in each context. One threat to the profession, therefore, is that prospective mediation clients or mediators themselves, will be misled by a translation that intersects with other fields while meaning something different.

Horie (2015) proposed that an alternative way of approaching transliterated spirituality as a research material is to describe the phenomenon from the point of view of the study subject at stake, so that to generate the meaning of transliterated spirituality. Hence, this research is conducted by letting the study subject to define what the term means. In order to do so, social and historical contexts need to be included in the research.<sup>44</sup> In this way, a precise definition of transliterated spirituality at the start of the research is not necessary. Instead, a definition can be generated within the parameters and context of the study itself and this can be used in future studies to compare and contrast with other similar phenomena in different disciplines and other historical or social contexts.<sup>45</sup>

This approach is especially useful to clarify the situation in which the practitioners of a particular field are often not concerned with the whole picture of transliterated spirituality. For instance, some practitioners do not consider the risks of using transliterated spirituality such as the other meanings of the term in different contexts, when they use it because other potential definitions of the same term are often considered irrelevant to their professional practice (Ando, 2006: 75; Horie, 2015).

Furthermore, this research must pay attention to the fact that this relatively new term, transliterated spirituality, has only been used since the 1970s and been the subject of academic research since the 1990s (Horie, 2003 and 2018; Shimazono, 2007a, 2007b and

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<sup>44</sup> Ito (2012) followed this approach in conducting his research.

<sup>45</sup> As Hirano (2015) listed.

2012). Given the proposal put forward by Horie (2003) that the appearance of transliterated spirituality has succeeded the Japanese terms *seishin* and *reisei* (see also, Kashio, 2012), it is vital to review whether *seishin* or *reisei* have intersected with the development of mediation in Japan. Such a historical overview of how transliterated spirituality has intersected with the development of Japanese-speaking mediation is also important in order to fully elaborate the issues and to discuss the suitability of the currently applied translations of the English terms spiritual and spirituality in Japan's mediation context.

In order to determine how to approach the terms spiritual and spirituality used in the mediation context, the next subsection reviews a few studies that are relevant to the focus of the present thesis.

### **2.2.2 Lessons from previous research: Nakatani, Shimada and Ohigashi (2013), Jones (2009), Mayer and Boness (2011), Nun (2011) and Horie (2019)<sup>46</sup>**

As discussed extensively in Chapter 1, the chosen research method of the present thesis is textual analysis. The selection was made based on Van den Hoogen (2011 and 2014) in addition to reviewing studies that are similar to this study. For example, by using concept analysis (as used in Walker and Avant, 2005), Nakatani, Shimada and Ohigashi (2013) generated concepts related to 'awakening spirituality' used in Japanese academic texts and came up with the following key words: 'spirituality', 'spiritual', 'awakening', 'crisis', 'the transliteration crisis', 'concepts', 'grief', 'sadness', and 'Japanese'. In their study also, spirituality was transliterated.

The difference with this study was that their definition of spirituality was sought without limiting the search to one academic field whereas the present study's investigation is limited to the context of mediation. Their applied research method, conceptual analysis, requires the researcher to set the definition of the subject term based on previous studies in the field. The concept needs to be already in the literature, have already been defined and clarified and the task is then to conduct further analysis in order to develop the definition to the next

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<sup>46</sup> The research by Horie (2019) was published on 19 November 2019 which, unfortunately, did not allow enough time for the present thesis to analyse his research in detail to the extent of examining his as a precedent research method of this research. However, the fact that Dr Norichika Horie of the University of Tokyo, one of a few leading Spirituality researchers of Japan, conducted his research in the same approach as this present thesis employs is encouraging, although the contexts differ.



level. In their case, defining transliterated spirituality was possible by drawing on previous research in the field of health care.

In the context of mediation, there are three empirical studies that have investigated the definition of the English term spirituality: Jones (2009), Mayer and Boness (2011) and Nun (2011).

Jones (2009: 146) as a researcher chose to explore the concept of spirituality through the voice of participants by conducting interviews with mediators. Taking a hermeneutic phenomenological approach, she defined spirituality based on her interview data as follows: “[s]pirituality in practice is not about having the answers or applying specific models, but letting go of ego and control, allowing oneself to be open to awareness and intuition that will permit the path to open to resolution” (Jones, 2009: 163). Her study also involved observers who watched the mediation sessions held by mediators who described their mediation as having a spiritual dimension; these observers stated that they could see something spiritual happening in the session.

However, her research article does not state what interview questions were asked to generate the definition nor how Jones herself as a researcher explained to those observers what to record during the mediation sessions for her research. It also omitted to provide information on how the invitation to participate was worded nor how study participants, including mediators, their observers as well as their mediation clients, were selected. Jones followed the approach suggested by Horie (2015) which is to study a subject without having a predetermined definition, yet she fails to disclose how participants were informed of the target phenomenon. As a qualitative research, her findings therefore may be biased by the selection process. Indeed, without having some working definition of the term, it is questionable whether bias can be avoided, regardless of whether the research is qualitative or quantitative.

When embarking upon an investigation of spirituality and mediation, a working definition of what spirituality means can be helpful. Mayer and Boness (2011), for example, in their exploration of issues related to cross-cultural conflict and its management in ecclesiastical organizations in Tanzania, defined spirituality in accordance with their religious doctrines. In

this research context, where the aim was to discover the role of their shared spirituality and the role of the organizations to manage cross-cultural conflicts, the study findings, generated through interviews, were not affected because the participants as well as the researchers had a shared consensus in relation to what spirituality meant.

The difficulties of establishing a shared consensus regarding the meaning of spirituality is illustrated by the research of Nun (2011). This qualitative research investigated the role of spirituality as a motivator for conflict resolution and involved practitioners including mediators. In this study, Nun (2011) also used interviews with the aim of investigating how spirituality influences practitioners offering conflict resolution. Nun (2011: 23-28 and 51-56) used academic resources to define spirituality. The study participants whom Nun, as a researcher, “identified as spiritual” were then selected (Nun, 2011: 43). However, she did not make explicit how she judged them as being spiritual and there was no evidence that she shared her definition of spirituality with the study participants, who were asked to define what spirituality meant to them (Nun, 2011: 112). The fact that participants were selected based on her own definition of spirituality would have restricted the variety of definitions offered in the interviews. As a result, the outcomes of this research were to some extent predetermined. In this regard, Bourdieu and Wacquant (1992) warn of the dangers of selecting study participants based on a definition generated by the researcher yet without sharing this definition with the participants.

In formulating their definition, neither Jones (2009) nor Nun (2011) make cross-references to many of the previous publications that use the English term spirituality in describing mediation practice. This lack of extensive cross-referencing causes confusion in terms of establishing a working definition for the term spirituality in the context of mediation when there is no influence from religion unlike Mayer and Boness (2011). As a result, subsequent research such as the present study, are left with multiple definitions. As stated previously, when translating the term from English to Japanese in the mediation context, two different Japanese words have been used for the English term spirituality,<sup>47</sup> and the present thesis argues that this is a result of the gap in current studies on spirituality and mediation practice.

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<sup>47</sup> As discussed in Chapter 1.

Despite the limitations and difficulties that have been identified in the study of spirituality in the context of mediation, these previous studies are nonetheless significant and useful for understanding the current situation of the English-speaking mediation context, which appears to be multi-cultural, international and cross-cultural. As reflections of those researchers' opinions, views and values, these publications, whilst not providing evidence-based, empirically tested or scientifically proven definitions, convey the ineffable, elusive nature of the terms spiritual and spirituality when used in the mediation context.

In addition, as also briefly mentioned in Chapter 1, Horie (2019) conducted a similar research as the present thesis. His approach was to focus on both English and Japanese publications in order to generate the meaning of transliterated spirituality to use in psychology and sociology of religion. However, his research context was so broad that the generated meaning risks being overgeneralised to the extent overlooking individual meanings contained in the term. In the present thesis, it is hoped that minority voices are noticed by focusing on the narrow context of mediation and using the selected source articles which were only translated and published in the Japanese mediation context.<sup>48</sup>

Furthermore, because transliterated spirituality is a relatively new term in Japanese language (Horie, 2003, 2015 and 2018; Shimazono, 2007a, 2007b and 2012), Horie (2019) conducted his research on the basis that the English term spirituality and transliterated spirituality should mean the same in those disciplines of both Japanese and English languages. In other words, Horie (2019) tried to bridge the gap between meanings of spirituality in two languages used in those disciplines. For the purpose of the present thesis, this is the difference from Horie's research. In order to generate the meaning in such a manner in the context of mediation, the question whether transliterated spirituality is the translation for the English term spirituality must first be answered.

In the Japanese-speaking mediation context, Ishihara (as cited in Kumamoto Jinzai Shinbun, 2012) is currently the only one published who voluntarily used the term transliterated spirituality, and her reference to the term was in a parallel of the term 'love'.<sup>49</sup> However, the English term 'love' is not 'spirituality'. Considering the status quo of English- and Japanese-

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<sup>48</sup> The detailed methodological approaches and methods are discussed Chapter 1.

<sup>49</sup> As mentioned in Chapter 1 and further discussed in 2.3 below.

speaking mediation contexts, Horie's (2019) research methods cannot yet be followed by the research in the present thesis. However, his research is helpful and inspiring for the present research which seeks the meaning of transliterated spirituality or *seishin* used in the context of mediation in resource written in English.

This research carries out textual analysis on two authors, Lois Gold and Mark S. Umbreit, whose work on meditation has been translated into Japanese. Because of limited research on this subject, the present thesis overcomes the difficulties in defining what spirituality means in the context of English-speaking mediation. By evaluating the suitability of the currently applied Japanese translations based on the analyses of the meanings generated in the English-speaking mediation context, the present thesis develops a fuller, more comprehensive description of the phenomenon in the Japanese-speaking mediation context.

Based on such analyses, the present thesis also contributes to developing resources which allow an integrated concept of transliterated spirituality to be established, something that has not been possible thus far due to the shortage of research (Uchimoto, 2009).<sup>50</sup> The contribution of the present thesis is also important because transliterated spirituality appears and is used cross-sectionally, despite having a variety of context-bound meanings.

As Horie (2019: 304) points out, there is almost no precedent research which investigated into transliterated spirituality in Japan. In November 2019 when he published his research to become such a role model for fellow researchers, this present thesis was already reaching its end. Regrettably, this research could only reflect his research findings and arguments onto its nearly completed analyses instead of following his research as its signpost. However, the analyses and findings of the present thesis allow future research to explore further based on Horie's (2019) academic arguments in the context of Japanese-speaking mediation.

In order to further illustrate and understand the contributions, controversies and consequences of using transliterated spirituality as well as *seishin* in the Japanese-speaking mediation context, the next section reviews the social context in which transliterated spirituality has been used since the late 1970s.

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<sup>50</sup> This point was mentioned in Chapter 1 and is further elaborated in the next section.

## **2.3 Issues arising from the introduction of transliterated spirituality to Japan's mediation context**

This section identifies the difficulties, that have arisen due to the application of transliterations and thus point to the existing issues in the context of Japanese-speaking mediation. The first subsection articulates the development of transliterated spirituality, the second examines peacebuilding and transliterated spirituality followed by the third subsection which is to briefly summarise the issues with transliterated spirituality concerning the Japanese-speaking mediation context.

### **2.3.1 About transliterated spirituality**

Shimazono (2012), a religious studies scholar, attempts to reduce the confusion over transliterated spirituality as highlighted in this section thus far by categorising the applications of transliterated spirituality since the late 1970s into two categories. One is the privatised healing and enlightenment sector while the other the public, more systematised sector which is more secular such as the medical, political and caring professions (see also, Horie, 2019). By following these categorisations, the first to articulate is the development of transliterated spiritual or spirituality in such a systematised sector which is often illustrated by academic research followed by the second discussion which examines so-called 'popularised' transliterated spirituality in the general public (Horie, 2019).

#### **2.3.1.1 In the systematised sectors**

English academic research using the term spirituality is well advanced compared to Japanese research. According to research by Ribaudo and Takahashi (2009), 1758 English articles were found that used the term spirituality while only 74 Japanese articles used transliterated spirituality (Takahashi, 2012). Compared to those who use both Japanese and English languages in their research into spirituality, the work of scholars who only use Japanese in their research may be unknown outside of Japan and vice versa, and, as a result, such scholars may not be aware of academic interpretations and discussions of the English term in the wider academic community.

This search result seems to suggest that the concept of 'spirituality' is still not popular or considered important among Japanese scholars. However, this is not necessarily the case. English articles that refer to spirituality include publications by Japanese scholars who only publish their research in English. One such scholar is Masayuki Ohkado whose research

interests are rooted in spirituality, near death experiences, previous lives, and life-between-life memories.<sup>51</sup> Alternatively, academic scholars who only use Japanese language may be using different but equivalent Japanese words in their publications and this may explain why their work does not come up when the term transliterated spiritual is used in the search.

Takahashi (2011: 221) associates the notion of transliterated spirituality in Japanese with concepts like “psychic” or “aura”, thereby referring to the transcendental abilities of a person (Ide and Takahashi, 2002). In Japanese religious studies, it is taken to mean “something ‘sensual’ toward something religious” (Miyajima, 2006: 135 by citing Ito, 2003: ii; Kasai, 2002: 85; Kashio, 2004: 273) and has increasingly been used among these scholars more frequently while the term ‘*shukyo*’ started losing transparency in its definition in the country.<sup>52</sup> Those scholars use the transliteration to indicate something distanced from institutionalised religions yet existing as, “deinstitutionalised religiosity” (Miyajima, 2006: 136 by citing Yumiyama, 2006: 91).

On the one hand, some state that transliterated spirituality is not the same as *reisei*, which contains the letter *rei* (霊) meaning ‘ghost’ or ‘supernatural being’, and by losing this letter, conveys a notion that is more of this world rather than ‘otherworldly’ (Ando, 2012; Horie, 2009 and 2019; Kasai, 2003). By using transliterated spirituality, scholars can emphasise the concept as being used in other countries (Horie, 2009). On the other hand, some scholars argue that transliterated spirituality only replaced *reisei* because of that letter *rei*, without changing its meaning (Ito, Kashio, and Yumiyama, 2004). From their perspective there is no difference in the meaning of transliterated spirituality, *reisei*, and English spirituality.

What is evident about transliterated spirituality used in the context of psychology and sociology of religion in Japan is that it already has established its independent meanings in the specific context from the other contexts in which the same term spirituality is used (see for example, Horie, 2019). Translating the English term spiritual by using transliterated spirituality only confuses its audience if the context has not yet established its meanings.

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<sup>51</sup> Some of Ohkado’s research titles are *A Study of a Case Supporting the ‘Reincarnation Hypothesis’ with Special Reference to Xenoglossy* (Ohkado, et al., 2009), *Spirituality and the Level of Happiness* (Ohkado, 2012), *A Case of a Japanese Child with Past-Life Memories* (Ohkado, 2013), *A Comparative Analysis of Japanese and Western NDEs* (Ohkado and Greyson, 2014), and *Children with Life-Between-Life Memories* (Ohkado and Ikegawa, 2014). Those are published only in English.

<sup>52</sup> The Japanese word for *shukyo* is 宗教, which means ‘religion’.

This explains and supports why Shimazono (2012) articulates transliterated spirituality by distinguishing between one used in the public systematised sector and in privatised sector to illustrate the surrounding environment of the term in Japan.

Even though the discussions are taken place in the limited sectors, there are conflicting views on what transliterated spirituality is. Horie (2009) claimed, based on his analysis of three academic fields, transpersonal psychology, spiritual care such as in nursing and sociology of religion, the meaning of transliterated spirituality has become something different from being described as religious or supernatural. In the words of Carrette and King (2005) who wrote on commodified spirituality in the English language, this process can be described as 'psychologization'. Shimazono (2012: 26 and 99) counterargues that, by widening the definition of 'religion', the category of 'spiritual but not religious' still falls well within the category of religion in a broader sense. From this perspective, the use of transliterated spirituality implies not detachment from religion, but an attempt to disassociate from the negative elements with which religions are associated in Japan (Shimazono, 2012: 41).

To be more specific, the negative elements include those images displayed by so called new religious groups in Japan who in the 1990s came to be associated with certain criminal acts including homicide and murder (Horie, 2018 and 2019; Shimazono 2012).<sup>53</sup> As such new religious groups or any large organisations come to be seen as problematic, the role of religion, which provided advices, reliefs and guidance to those struggling in their lives, has been largely replaced by psychology or psychotherapy. Both has gained in popularity particularly in the last quarter of the 20<sup>th</sup> century in Japan because their focus is on an individual rather than to act as a group (Shimazono, 2012). Around the same time, transliterated spirituality started to be used in academic publications more frequently alongside the term healing in the late 1990s to early 2000s (Horie, 2007),<sup>54</sup> although the frequent application of transliterated spirituality in the fields of psychology and psychotherapy should not be taken as an indication that religion has been entirely replaced and diminished in the country.

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<sup>53</sup> A couple of those groups are discussed in more detail in the next section.

<sup>54</sup> Transliterated spirituality used as a part of counselling or therapy is discussed in the below section of 'In the general public'.

In fact, Shimazono's (2012) understanding is that transliterated spirituality means more or less the same as 'religion' but that the former emphasises its separation or independence from institutions, organisations or groups in which certain practices or views are shared with other individuals. Transliterated spirituality cannot be categorised as a traditional religion which requires its believer or follower to belong to one group, to be a believer of one godly figure such as Christ or Buddha, to value exclusively own group's faith as the only and best, and to have a strong view of religious dichotomy in which the transcendental existence such as God only saves the believers and punishes non-believers (Shimazono, 2012: 99; see similar arguments by Carrette and King, 2005, although not about Japan).

Ama (1996), however, argues that it is impossible for an individual's faith to remain within the person alone. In fact, the notion then seems to become a religious principle of a kind from the moment it is communicated and shared with others (Aston, 1905: 5). Once communicated, what one means by transliterated spirituality influences people's foundation of sense making, fundamental values, the way of thinking or viewing, or how they perceive things in their lives; this is in a broader sense a religion in Japan (Ito, 2008: 158-159 by citing Shimazono, 2012).<sup>55</sup> Yet, it is also true that transliterated spirituality does not fix its meanings (Ando, 2006; Horie, 2018; Haga, 2007; Kashio, 2012; Uchimoto, 2009), and that the term used in different academic contexts contains various degrees of religiosity depending on the context (Uchimoto, 2009). In 2019, Horie (2019) further claims that transliterated spirituality in the areas of psychology and sociology of religions is used by people who use the Japanese language to mean something core or essential to religions.

By combining those scholars' views which may appear as though inconsistent over the period of time or vary depending on the contexts, academics in Japan felt the need to distance the notion of transliterated spirituality from religion or the supernatural at a time, yet the attitudes of the users of the term are indeed rapidly changing over a short period of time. Alternatively, these academic arguments which may appear inconsistent to some extent, should blame such ineffable thus context dependent nature of transliterated spirituality.

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<sup>55</sup> This is a similar argument as Parsons (1963) or Bellah (1967).



Nonetheless, a discussion about the suitability of currently applied Japanese translations of the English term spirituality in the context of Japanese-speaking mediation does need to be separated from religious studies.<sup>56</sup> If the analysis being carried out simply aimed to establish whether transliterated spirituality used in the context of mediation had a religious element or not, the division would only be between whether it is a faith-based mediation or not. However, neither Lois Gold nor Mark S. Umbreit publish their views on faith-based mediation, where mediation is offered by particular religious doctrines or on an assumption of a shared faith between mediator and clients attending the mediation sessions.

Thus, one must conclude that the use of the term spirituality by Gold (1993 and 2003) and Umbreit (1997 and 2001) is not associated with specific religious doctrines or their intention to form a certain faith to conduct faith-based mediation. As discussed earlier, it is important to start from what these two authors mean by the English terms spiritual and spirituality to understand their notion in the context of Japanese-speaking mediation.

### **2.3.1.2 In the general public**

Japanese people involved in mediation are not necessarily academics whose research interests are in religious studies, spirituality or mediation. For example, participants at Umbreit's trainings held in Kumamoto in 2017, included many practitioners who have strong faiths in institutionalised religions but are not religious studies scholars (Ishihara, 2017a). As seen in Chapter 1, both mediators and their prospective clients have already exposed to transliterated spirituality outside of the mediation context in Japan. The application of the terms spiritual or spirituality is not restricted to the above discussed academic field. At the same time as being used by academics, the same transliterated terms of spiritual and spirituality are used in other sectors or fields of Japanese society, irrespective of faith or interest, including its mediation context.

When Ishihara discussed the importance of spirituality in mediation in a public lecture, the lecture was open to members of the general public in Japan (Kumamoto Jinzai Shinbun, 2012). Any member of the public can also purchase the book translated by Fujioka (2007) to learn what mediators mean by transliterate spirituality. An open lecture held at Keio

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<sup>56</sup> In Religious Studies, the transliterated spirituality means privatisation of what religions teach; religion contains the system or organisation as well as the privatised matter (Shimazono, 2012: 97). This view of Shimazono (2012), however, is only significant when the applied context is not mediation. The detailed discussions are in Chapter 3, 4 and 5.

University in Tokyo in 2012, entitled ‘the Present and Past of Spirituality’ was attended by members of the general public as well as students and other academics. Licences for ‘spiritual carer’ are also issued by the Japanese Society of Spiritual Care, the majority being obtained by nurses working in hospitals and hospices in Japan to offer grief support and care.

The notion of spirituality is also being embedded and incorporated in what is normally categorised as ‘pop-culture’ or ‘sub-culture’ in Japan (Hirano, 2006), where it has become a media trend since the late 1970s or early 1980s (Gaitanidis, 2012; Horie, 2009; Ito, 2008: 4; Shimazono, 2012: 20-26). Spirituality in this context is categorised as ‘popular spirituality’ in Japan (Horie, 2019), but not limited to Japan. For example, Jaspers (2011) extensively explored the topic in the USA and UK; Hume and McPhillips (2006), who are both Australia based, published a book on popular spirituality. Japanese scholars, however, do not appear to actively investigate this phenomenon until the end of November 2019 when Horie (2019) published his extensive research on the topic.

While academics have not yet thoroughly investigated the phenomena, people of Japan have been exposed to such pop-spirituality (Horie, 2019). Since the 1970s, in bookstores a new section called ‘*Seishin Sekai*’ has appeared next to ‘Religion’ under which can be found books and magazines on topics such as healing, self-transformation, reincarnation, near-death experiences, yoga, meditation, shamanism, animism, progression of consciousness, mystical experiences, transpersonal psychology, holistic medicine and new science (Ito, 2008; Shimazono, 1996; 2012).<sup>57</sup> This shelf section was first created by one of the largest bookstores in Japan which held a bookfair to introduce books from India and Nepal on spirituality (Shimazono, 1996: 221). This section, *Seishin Sekai*, is the equivalent to the section often called ‘*Esoterisch*’ in bookshops in Germany, ‘Body, Mind, Spirit’ in the UK, and ‘New Age’ or ‘Self-Help’ in the USA; despite these different labels, the books sold in these sections are similar if not the same (Ito, 2004). *Seishin Sekai* was intended to mean ‘Spiritual World’ as has already been discussed in Chapter 1, but *seishin* has now been argued to be inadequate as a translation for the English term spirituality (Tazaki, Matsuda, and Nakane, 2001 and 2002).

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<sup>57</sup> The Japanese translation for *Seishin Sekai* is 精神世界.

Between the appearance of *Seishin Sekai* book corners in the bookshops and the aforementioned transliterated spirituality trends since the late 1990s or early 2000s,<sup>58</sup> there has been the emergence of so-called cult groups as briefly touched above. For example, Aum Shinrikyo, a religious group once categorised as a new religion in Japan which was later categorised as a cult group (Lewis, 2013: 242; 2015: 36), committed, among other crimes, the 1995 sarin gas attack in the Kasumigaseki underground station, Tokyo, on 20<sup>th</sup> March 1995. Its guru, Asahara Shōkō, together with twelve ‘believers’ were convicted and given death sentences. The death penalties of seven of them, including Asahara, were executed on 6<sup>th</sup> July 2018. This incident turned public opinion against religion in general and has resulted in organised or institutionalised religions being “increasingly viewed with a critical eye” (Nelson, 2008: 305; see also, Fujita, 2002; Sakurai, 2012). In later reports, Aum Shinrikyo used mind control techniques such as brainwashing over its followers to commit other crimes (Japan Times, 2018).

Aum Shinrikyo initially targeted acupuncture practices and yoga studios to recruit members, offering individual participants ‘spiritual’ development. In the beginning, Asahara claimed he used Shaktipat.<sup>59</sup> Eventually, it was officially registered as a religious group yet continued to offer ascetic practices to achieve consciousness transformation and attain a higher *satori* stage (Horie, 2007). Around the same time, ‘spiritual’ development was also stressed by psychotherapists as part of guiding their clients through a healing process (Horie, 2007). In the eyes of the general public, the applications of the same transliterated spirituality in different fields confused its audiences to judge what was and was not religious or religion when they only had the binary classification based on their vague awareness of what religion is (Lewis, 2018).

Two years after the Aum Shinrikyo incident, in 1999, Takahashi Koji, the leader of another called Life Space, which offered psychological exercises using large group awareness trainings, was arrested and charged with the homicide of one of his followers.<sup>60</sup>

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<sup>58</sup> This trend is further discussed below.

<sup>59</sup> “The Shaktipat initiation was one of Aum’s rituals that were aimed at helping the followers achieve the higher spiritual state. Through this rite, spiritual energy was directly transferred from Asahara in order to awake the kundalini of the receiver.” (Maekawa, 2004: 156).

<sup>60</sup> The details of this incident are out of scope of this research but available at [https://www.cesnur.org/testi/lifespace\\_updates.htm](https://www.cesnur.org/testi/lifespace_updates.htm).

The incident began when one of the followers became unconscious due to a cerebral haemorrhage. Takahashi kept insisting that the follower could be 'cured' by using Shaktipat, and the other followers, including the son of the victim, obeyed Takahashi's order to keep the victim in bed at a hotel. Following the stroke, the victim passed away, but Takahashi still insisted that the victim now deceased was still alive and left the body in the bed. The corpse was left until it became mummified. The police were called when Takahashi published the photo-book which showed the process of the body being mummified and sent the book to a lawyer who reported it to the police.<sup>61</sup> Following the discovery of the now mummified corpse and before being arrested, Takahashi and other followers held a news conference that was broadcast on TV programmes as well as reported nationally by newspapers. Takahashi, now deceased, spent 7 years in prison.

According to Koike (2004), the Life Space cult still exists and that the members still believe that Takahashi's Shaktipat was effective and that the victim was still alive then but was subsequently killed by the police. As of 2002, Takahashi's wife has been hosting yoga lessons as part of the group's activities, while publishing books claiming that Takahashi was wrongfully convicted (Koike, 2004). Although groups such as Aum Shinrikyo or Life Space are now categorised as cults, they are also different in that Aum Shinrikyo was registered as a religious organisation while Life Space is a private company. However, they are both close knit systematic organisations that are against secularisation and obey one guru (Koike, 2004). In fact, both Asahara and Takahashi referred to themselves as Shaktipat gurus although their practice does not align with what Shaktipat should be and there is no evidence that either of them studied and trained in the practice of Shaktipat.<sup>62</sup>

Following these incidents in the late 1990s, references to transliterated spiritual or spirituality increased rapidly, together with the need for healing (Horie, 2007 and 2019). As a result, transliterated spiritual has since "become a buzzword in the popular culture of Japan. A look at television programmes or on the shelves of any bookstores reveals that now in Japan anything can be 'spiritual': 'spiritual spot'<sup>63</sup>, 'spiritual money', 'spiritual education',

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<sup>61</sup> They were defending the lawsuit which the leader sued for defamation. The defendants included mass media, lawyers, academic scholars, and other individuals who published their views on Life Space by categorising this group as one of cults.

<sup>62</sup> There were many other smaller, less serious incidents and social problems caused by other new religious or 'spiritual' groups during this period in Japan.

<sup>63</sup> This means places where visitors "will feel regenerated and empowered by their natural and supernatural beauty" (Gaitanidis, 2010a: 244). Ueda (2014: 68) described the power spots as "sacred religious places to practice nature worship".

'spiritual motherhood', 'spiritual cuisine' and so on. [...] During [the] fieldwork [...there were] more than 150 names of such spiritual therapies: past-life therapy, rose healing, DNA activation, *kotodama* counselling,<sup>64</sup> to cite a few" (Gaitanidis, 2011: 186).

In addition to what Gaitanidis (2011) reported, other scholars have cited the influence of Masayuki Ehara, who describes his occupation as 'spiritual counsellor' using transliteration and hosting programmes on TV as well as radio (Hirano, 2006; Horie, 2019; Gaitanidis, 2012). According to Gaitanidis (2011), 'spiritual counsellors' in Japan provide 'spiritual business.' In fact, Theta Training, one of the biggest spiritual therapist training companies in Japan, focuses on the mind, body and spirit approach in its healing methods (Theta Healing, 2018), and by 2012, had certified up to 1000 'spiritual therapists' in the country (Miyazaki, 2012).

Gaitanidis (2011: 188) states that these 'spiritual businesses' for his research purposes are "the activities of those who are part of the spirituality boom in the post-Aum [period...] characterized by 'a higher level of distrust toward religious organizations combined with widespread beliefs about the workings of *kami*,<sup>65</sup> spirits, deities and ancestors'." He (2011: 196 and 202 respectively) argues that "a 'spiritual counselling' session [...] may be understood as a first sub-category that includes all techniques reminiscent of the Western channelling sessions" and "as a vernacular attempt to move away from [religions], the *supirichuaru* has become much closer to the idea of therapy and its expected outcome, healing (*iyashi*)."<sup>66</sup>

In this sense, spirituality, which has become popularised through being a part of Japanese pop-culture, indeed may have become a "symptom and cause of people unplugging from the world of local, regional and national shared sense of togetherness" because it allows you to "build a paradise in your home, your support networks, your practice, and let the rest of the world find its own way" (Webster, 2012: 48). This view concurs with Hirano (2006) and Shimazono (2010), who argue that transliterated spirituality is used as a label to cover what the New Age Movement intended to achieve: to create a utopian world for the peaceful era, yet only in the privatised space.

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Kashio (2012) explains that it also includes places where nature has been left untouched and those places used to be called 'spiritual places'.

<sup>64</sup> The Japanese translation is 言霊.

<sup>65</sup> The Japanese translation is 神.

<sup>66</sup> The Japanese translation of *iyashi* is 癒し.

In modern Japan, transliterated spirituality thus often implies privatised healing when it is used in its pop-culture (Sakurai, 2012; Ueda, 2014). The service and product industries that use transliterated spirituality and spiritual as their label have extensively expanded their boundaries as if the terms can invade any commercial industry (Sakurai, 2012). The consumers' needs behind such provision are not only the desire for healing, happiness or miraculous results but also proactive realisations within themselves by using those products and services or visiting such places (Ueda, 2014). Transliterated spiritual and spirituality have been widely recognised and commodified in Japan over the last decades (Shimazono, 2007c).<sup>67</sup>

Arimoto (2011) analysed and estimated the size of the 'spiritual' market in Japan as 1 trillion yen as of 2011. This calculation is admittedly a rough estimation due to the blurred market categorisations that are a consequence of the ambiguous meanings of transliterated spirituality. In calculating its market value, Arimoto (2011) included any businesses engaged in selling spiritual goods and services such as therapies, charms, tours to spiritual locations, lectures, fortune telling, power stones, music in CD or DVD, and so on. Such an 'epidemic' increase in 'spiritual businesses' has been linked by Gaitanidis, (2012: 367) to the New Age Movement in Japan. Hirano (2006: 75) questions whether such businesses, which she labels "popularised spirituality", may be privatising the new age.

However, there are various views on such a connection. For instance, Shimazono (2012) sees this rapid growth of public interest in or need for products and services relating to transliterated spiritual or spirituality as only functioning as an entrance to what he calls 'New Spirituality', which Shimazono (2010) defines as something detached and independent from institutionalised religion.

Furthermore, the connections are also equivocal to other caring professions where the same transliterated spirituality is used to describe a part of their work, such as the aforementioned nurses who are also seen as spiritual carers undertaking grief support and care. The trend described as a 'spiritual boom' (Gaitanidis, 2011; Sakurai, 2012; Ueda, 2014) has also been confused either intentionally or unintentionally with what researchers of spirituality

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<sup>67</sup> Haga (2007) and Horie (2018) wonder the appearance of Shimazono's (2012) 'New Spirituality' might have been temporal. However, those spiritual businesses reported by Gaitanidis still exist and are available in Japan as of 2019.

conceptualise as 'spiritual culture' or '*reisei* culture' in Japan (Kashio, 2012; Sakurai, 2012). Horie (2019: 302) clarifies that transliterated spirituality used mainly in media needs to be distinguished from the same term discussed in academia or other public or systematised "areas such as politics, psychology, education, environment or politics". Nonetheless, the same term is used in those different areas.

Kashio (2012: 2) posits that, the reason why people in Japan desire spirituality is because of the unstable era in which they live; people look to the spiritual as a way of gaining some control over this perceived lack of stability. In this context, Kashio (2012) used the transliterated spirituality to mean something invisible and beyond one's being. It is noticeable that his meaning of transliterated spirituality also appears to be incongruent to the reason why academics replaced the term *reisei* with transliterated spirituality. The breadth and scope of these desires is such that one wonders whether there is any commonality in the meaning of spiritual or spirituality as used in and across these various contexts (Kashio, 2012).

The discussion so far in this section has focused on the privatised healing and enlightenment sector, which is largely commercialised and commodified. When the same transliterated spirituality is used to introduce the notion of spirituality in the mediation context, members of general public, including mediators themselves, may well take this as a sign that mediation as a practice is being subjected to commercialisation and commodification. For this reason, it is important to establish what Lois Gold and Mark S. Umbreit intended when using those terms in their publications. Without investigating the meanings of the English word of 'spirituality' or 'spiritual' used in the context of mediation, transliterated spirituality as used in the Japanese-speaking mediation context only becomes a small part of this complex web of a multi-dimensional concept.

While the commercialisation and commodification of spirituality are not confined to Japan (see for example, Carrette and King, 2005), what is unique in Japan is that its degree of emerging transliterated spirituality in the private sphere as well as the fact that it has been widely used to license a group of people in a range of public or systematised spheres such as education, health care, social services, therapy and counselling, ecology (Ito, 2003: 166-169; Kashio, 2012), peacebuilding (Kaneda, 2007; Matsumoto, 2016) and politics (Horie,

2019; Shimazono, 2007c). Moreover, it has come to be intertwined in the nationalism of Japan (Furusawa, 2009; Horie, 2019; Shimazono, 2007b; Takahashi, 2001).

This is because, despite its context-bound definitions, transliterated spirituality in these public domains is considered to be deeply connected to the concept of peace through the notion of ‘universal spirituality’ overcoming differences in conflicts (Kashio and Motoyama, 2015; Kobayashi, 2007 and 2015; Shimazono, 2012; Yamawaki, 2004). In Japan’s public philosophy, scholars point out that there is a desire to generate a degree of universalism in its meaning (for instance, Kobayashi, 2007) and to transfer this universality to the field of peacebuilding.

Japan’s public philosophy is defined by Yamawaki (2004) as an academic discipline that considers social phenomena such as politics and economics from a public policy point of view. The role of spirituality in the field is to bridge the differences across the field, for instance politics, to create, preserve or maintain peace (Kobayashi, 2007). Nonetheless, Kobayashi (2007) extends its coverage to religious conflicts and identifies the importance of global spirituality in order to solve such conflicts from a public philosophical point of view. However, mediation practice, which, unlike peacebuilding, is not primarily concerned with reconciliation, thus does not employ such a philosophical point of view.<sup>68</sup>

Because the present thesis focuses on the Japanese-speaking mediation context alone, which does not relate to public philosophy, the next subsection only analyses the role of transliterated spirituality in the context of peacebuilding in Japan.

### **2.3.2 Peacebuilding: one of precedential fields of using the transliterated spirituality**

Although there is a degree of overlap between peacebuilding and mediation, they are entirely different professions in practice (Lederarch, 1997; LeResche, 1993; Zelizer and Chiochetti, 2017). Peacebuilders act as mediators to address issues with the strong intention to reconcile the disputing parties and to restore, reconstruct or restructure a non-conflictual relationship (Diamond, 2000: 130), often by signing a peace agreement (Eriksson and Kostic, 2013: 5). Their main aim is thus to create a new relationship, which *they* define as ‘peaceful’,

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<sup>68</sup> The nature of mediation practice in Japan is discussed in Chapter 5 below.



by using conflict resolution tools, including mediation but also negotiation, conciliation and arbitration (Eriksson and Kostic, 2013 emphasis added).

In a clearer example, a violent relationship can be mediated so that the victim of the violence will not be attacked again by distancing themselves from the offender, while the offender and victim can restore their non-violent relationship as a result of the peacebuilding activity. The intention is not only to stop the dispute but also to build a further reconciled relationship and this is the vital difference between peacebuilding and mediation. The former is now often referred to when discussing conflict resolution between countries, governments, or other larger social organisations as well as between individuals (Zelizer, 2013). The latter only settles disputes and does not reconcile the disputing parties. However, this does not mean that mediators do not work in international disputes or when larger organisations are in dispute with the government (for instance, see Ury, 2019).

As a result of introducing the translated spirituality of Lois Gold and Mark S. Umbreit to the Japanese-speaking mediation context, the two distinct fields of peacebuilding and mediation seemed to overlap, particularly in that they both used the same term, transliterated spirituality. By using the same terminology as is used in peacebuilding, the Japanese-speaking mediation context risked losing the distinction between the two professions. As a result, it may be assumed that the role of mediators is to bring together the two disputants to reconcile, in other words to peacebuild, rather than simply to settle disputes.<sup>69</sup>

Because the notion of transliterated spirituality has been used longer in peacebuilding in Japan than in mediation and also, due to the commonalities between the process of peacebuilding and mediation, analysing the role of transliterated spirituality in this context can shed light on understanding the meaning of spirituality in Japan's mediation context.

In 2007,<sup>70</sup> the Peace Studies Association of Japan published a journal bringing together a number of articles by scholars in religious studies as well as philosophers arguing for the importance of spirituality, nonetheless transliterated. A decade later, Matsumoto (2016) pointed out the difficulties of understanding the meaning of transliterated spirituality in the

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<sup>69</sup> For more detail, see Chapter 5

<sup>70</sup> Coincidentally, this was the year when Fujioka (2007) first introduced the notion of using 'spirituality' in the context of mediation.

context of peacebuilding. He argues that the definition of spirituality put forward by Galtung (for instance, Galtung and MacQueen, 2008) and Smoker and Groff (1996) is vague and suggests instead going to the work of Diamond (2000), who is both a peacebuilder and mediator, for a clearer sense of its meaning. Diamond herself refers to her work as both peacebuilding (see for instance, a telephone interview with Goldberg in Goldberg and Blancke, 2012) and mediation (Diamond, 2000: 207) and her conception of peace influences peacebuilders in Japan as well as internationally (for instance, Kaneda, 2004). Diamond (2000) does not merge the two but rather, emphasises the importance of undertaking peacebuilding work rather than simply mediating.

Diamond's peacebuilding work is built on the underlying principle of spirituality as introduced to Japan in 2002 through transliterated spirituality. Diamond (2000: 243 and 76) conceives of conflict as spiritual growth and posits four spiritual principles in peacebuilding work, which are unity, interrelatedness, love and co-creativity. Using those principles, she describes the moment of reconciliation as a shift, whereby "the heart opens, and whatever we have been holding moves ever so slightly aside to make room for a new understanding" (Diamond, 2000: 180).

In order to cause such a shift, there is a need for inner peace, which is fundamentally a spiritual connection (Diamond, 2000: 45). This inner peace, according to Diamond, is achieved by following three 'paths': to make peace with ourselves, to make peace within ourselves which forms the foundation of building a relationship with other people, and to find our own experience of Peace, with a capital P (Diamond, 2000: 39). In her view, this is about "letting go and letting love", rather than God (Diamond, 2000: 181), although she believes that we are "[a]rising from the same Source" and "[c]arrying the same sacred essence" (Diamond, 2000: 67). By the capital P, she means our private relationship with God or Spirit, which is the Source of the energy of peace that we can plug into directly (Diamond, 2000: 44-45). Diamond's conception of spirituality involves surrender and love, rather than God.

Diamond describes how the connection is established between other people and peacebuilders, including herself, who possess inner peace founded on the metaphysical triad of order, harmony and unity (Diamond, 2000: 26-27). She goes on to explain that in the

realisation of “the Spirit of Peace reminds us that the three work together” (Diamond, 2000: 26), our awareness of the essential, universal wholeness creates our inner peace and requires others because we need to make the inner peace a concrete form and action as outer peace. This unity of tangible, material peace with others as a result of one’s inner peace is described as “the highest order of peace” (Diamond, 2000: 26).

Using Diamond’s definition as a starting point, Matsumoto (2016: 37) further divides spirituality into four categories: every day and extraordinary spiritual experiences on two ends of a horizontal axis and harmony and conflicts on a vertical one. Harmony at the top of the vertical axis is accompanied by ‘positive spirituality’ and conflict at the bottom is coupled with ‘negative spirituality’. In a similar vein, Kobayashi (2007) also distinguishes between positive and negative spirituality and categorises cult groups like Aum Shinrikyo as a manifestation of negative spirituality. Peacebuilding in Japan uses the vertical axis of positive and negative spirituality in line with Galtung (1969), and this overlaps the reference of positive and negative peace made by Diamond (2000: 25).

Furthermore, her reference of peace also overlaps with Matsumoto’s vertical axis, which places positive spirituality at the top and negative spirituality at the bottom.<sup>71</sup> In other words, the introduced concept of spirituality by Diamond (2000: 20), who also states that “the critical issue was about [her] relationship with God, to Spirit, to [her] own divine and sacred Self” by reflecting on her own transformation as a peacebuilder, has integrated into Japanese scholars’ spirituality in peacebuilding.

When transliterated spirituality was introduced to peacebuilding in Japan, the origin of the concept, which was introduced from overseas, has been used to reflect on social issues and its meaning was adapted to the perceived needs of society at that time. So, although there are several possible definitions of transliterated spirituality, scholars have selected the meaning that appears to be clearest and better suited to the context. Matsumoto’s vertical and horizontal axes are one example. This understanding also underpins the work of a religious studies scholar, Kasai (2003), when summarising how those who work in client care professions reflect their views by using transliterated spirituality. In his view, the horizontal

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<sup>71</sup> In Mathematics, normally both left half of the horizontal axis beyond 0 and upper half of the vertical axis beyond 0 are marked as negative. There is no reasonable explanation as to why the positive spirituality comes at the top and the negative one at the bottom of the vertical axis.

axis in the professions reflects their religious or faith values and the vertical one indicates 'heaven' in the higher position and one's inner self in the lower position. However, this overlap between Kasai's axes and Diamond's may be something to do with her underlying view of relationship with God as stated above.

Unsurprisingly, the notion of vertical and horizontal axes shared among scholars is also used by Huston Smith, an authoritative figure in the field of religious studies (see Smith, 1991/1958, 1989, 2009, and 2010) in a discussion about the common principles or practices across the world's religions. In an interview in 2010, he stated that, "they all affirm the existence of God by whatsoever name, that is the vertical direction...horizontal is commanding us to love one another. The formula for that is to do unto others what you want that they would do unto you" (Smith, 2010: from 0:30 to 1:10). Smith describes common existence as being vertical, drawing a line in an upwards direction and holding his hand at the high end of the vertical line when discussing "god by whatsoever name". When asked about the commonality of understanding regarding where 'god' is across institutionalised religions, Smith (2010: 0:42-1:30) positions his hand somewhere higher than his head to show the way to "god by whatsoever name".

Kasai (2003) considers these axes as a fundamental structure of transliterated spirituality. When compared against Kasai's view which is that people come with the assumption that spirituality is a religious phenomenon, Diamond's spirituality in peacebuilding suddenly becomes a reflection of her own religion or religious values, despite stating that each individual finds their own experience of Peace (Diamond, 2000: 39) and her clear avoidance of religion in her statement 'letting love, rather than God' (Diamond, 2000: 181). While Kasai's (2003) understanding of those two axes may be valid in the discipline of religious studies, placing religions along one of those axes may lead to misunderstanding transliterated spirituality as contextualised in and by peacebuilding (see also Hirano, 2015, for a similar argument on spirituality and Alternative Medicine).<sup>72</sup> In a similar vein, Ishihara, one of the organisers for Mark S. Umbreit's lectures in Japan, seemed to wish to distance the notion of transliterated spirituality in the context of mediation from any religious connotations (Ishihara, 2017a).

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<sup>72</sup> As Hirano (2006) warns, the researcher's reflexivity works in both positive and negative ways at the same time and it is important to fix the research's disciplinary location. This point has been discussed in 2.2 above.

However, the further issue exists with Ishihara's reference to spirituality in a parallel of the word love in the context of Japanese-speaking mediation (cited in Kumamoto Jinzai Shinbun, 2012). Her use of transliterated spirituality appears to be very similar, if not an identical, to transliterated spirituality described by Diamond which has been widely used in peacebuilding in Japan as discussed above. Considering the term spirituality is context bound, it is important to pay particular attention to the influences from such a cross-sectional application of the same terminology. In other words, there is a possibility of transliterated spirituality causing confusions within and outside of the mediation profession and distorting the professional boundaries between mediation and others which use the same transliterated spirituality.

Finally, since transliterated spirituality appeared and gradually started being used in Japan in the late 1970s, Shimazono (2007b and 2012) proposed the two categories consist of what he called *New Spiritual Movements and Culture*. The first category includes sectors where transliterated spirituality is used to achieve more privatised healing and enlightenment in commercialised forms or commodities; the second is in more secular sectors where caring professionals actively use it to achieve pacifism in people's internal self (Shimazono, 2012; see also, Shimazono, 2007a). As above, spirituality used in peacebuilding in Japan falls in the second category as it proposes to use spirituality to achieve peace and reconciliation. It remains unknown at this point as to whether spirituality used by Lois Gold and Mark S. Umbreit does the same or falls at all in either of those two categories proposed by Shimazono.

As this discussion about the meaning of transliterated spirituality in Japan suggests, there is no cross-sectionally agreed definition of the term; rather, its meaning varies depending on the fields of study, disciplinary precepts, practices and even individual scholars with their own values and world views. In other words, the term is intrinsically context-bound.<sup>73</sup> The users of and audience for the term thus may not share a common meaning of the term when used in communication.<sup>74</sup> Those who look to sources in other languages such as English decided to transliterate 'spirituality' in their context to stress that the notion is 'foreign'

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<sup>73</sup> Although Public Philosophy seems eager to generate 'universal' spirituality as Kobayashi (2007) argued, such an idea would not be supported by the researchers of Spirituality (for example, Ando, 2006; Horie, 2015 and 2018; Shimazono, 2012).

<sup>74</sup> This matches to and supports the observation and recommendation put forward by the researchers of Spirituality in the section 2.2 above.

(Horie, 2009). However, in English too, the notion of spirituality can mean different things depending on the context (la Cour, Ausker, and Hvidt, 2012).

Before concluding this chapter, the next subsection sums up the issues with transliterated spirituality based on the arguments thus far in this section.

### **2.3.3 The issues with ‘translated’ spirituality**

The issues with introducing the notion of spirituality, which is originally developed in English, to the Japanese-speaking mediation context can be summarised as follows. Firstly, the meaning of the English terms spiritual and spirituality, as used by Lois Gold (1993 and 2003) and Mark S. Umbreit (1997 and 2001) in the mediation context, are unclear. As a result, the currently applied Japanese translation used in this context may not accurately convey the original meanings.

This leads to the following issue, which is whether the current translation is therefore appropriate for the Japanese-speaking mediation context. The third issue arises from the relationship between religion and the notion of using spirituality in the Japanese-speaking mediation context, due to transliterated spirituality, the currently applied translation of the English terms spiritual or spirituality, having no fixed meaning but being dependent on context.

According to Horie (2018), the rapid trend of using the transliterated spirituality which started sometime around the millennium year rapidly began ceasing. As discussed in Chapter 1 as well as this chapter, the appearance of the transliterated spirituality was a part of the ‘spiritual boom’ in Japan (Gaitanidis, 2012; Sakurai, 2012), and the transliterated spirituality were commercialised and commodified in some areas (Arimoto, 2011; Shimazono, 2007b and 2012). In recent years, transliterated spirituality has acquired the impression of being a business tool; as a result of this, a wide range of the Japanese population expressed, through questionnaires, their negative feelings toward the transliterated spirituality which now appears to be products and business tools to gain profits (Horie, 2013). This decline in using the transliterated spirituality has also been encouraged by the criminal activities of cult groups such as Aum Shinrikyo. The usage of the transliterated spirituality in the Japanese mediation context risks wrongly displaying such attitudes to the public.

As if corresponding to such societal attitudes toward the transliterated spirituality, Horie (2018) reported that, in the 2010s, more books with titles using the term *reisei* were published in Japan by various scholars for the general public. According to his research, the contents and areas of those publications are not the same, yet those authors use the term *reisei* in the places where the transliterated spirituality would have been used. Horie (2018) interpreted this tendency by analysing in light of his other research conducted in August 2018, that those authors tried to convey their sincerity toward the importance of spirituality because the transliterated spirituality tends to be perceived as something false, fraudulent and incredulous. Horie (2018: 132) called this a revitalisation to *kanji* letters. Should the Japanese-speaking mediation not follow this revitalisation to translate the English term spirituality?

In the next chapter, textual analysis of publications by Lois Gold and Mark S. Umbreit is carried out to tease out the meaning of spirituality as they use it in the context of mediation.

## 2.4 Conclusion

Based on the review of this chapter, it is argued that the meanings of the English terms spiritual or spirituality as used in mediation publications may not be accurately conveyed to Japanese-speaking audiences due to the existing issues with currently applied translations. Empirical studies seem to face difficulties and potential research errors in data collections and individual studies freely use their own definitions of the terms. As a result, there has been no attempt to find a universal definition in the field of mediation. The three empirical studies conducted in the field of spirituality and mediation discussed in this chapter, illustrate this. Horie's (2019) latest research raises the concern as to whether such a universal meaning is indeed necessary. So long as transliterated spirituality means the same as the English term spirituality in the context at stake, no issue seems to arise.

At this point of the professional progress of the Japanese-speaking mediation, in which mediation practitioners and scholars have not yet frequently referred transliterated spirituality, the resulting ambiguity as to its meaning in English language has led to confusion when applied in the Japanese mediation context albeit in the form of translation. Mediation involves both practitioners and clients who are not necessarily academics specialised in

spirituality and so are exposed to so many different interpretations of what 'spirituality' might mean for the practice and process of mediation. The various translations used even in the same book about mediation exacerbates further the confusion. As a result, transliterating spirituality may change, distort or fail to convey the whole dynamism of using spirituality in its mediation context.

As has been discussed, in the field of peacebuilding in Japan, which can be seen as overlapping with mediation, the notion of spirituality was introduced by using transliteration from English sources yet the understandings and applications of the notion have been 'localised' by applying the concept to Japanese society in terms of the issues that exist in that society, and by using horizontal and vertical axes to define it. In addition, the use of the two axes can be seen in religious studies and this overlap links peacebuilding to religion and vice versa. The same might have occurred in the mediation context. In Japan, this religious association is particularly unhelpful as faith-based mediation does exist separately from other mediation. Thus, the notion of spirituality has been merged with religious connotations, limiting it to faith-based mediation and depriving non faith-based mediation of the particular insights and applications that the notion of spirituality discussed by Lois Gold and Mark S. Umbreit may offer.

Lastly, clearer use of the terminology in the two overlapping yet distinct contexts of peacebuilders and mediators in Japan would benefit both professions in terms of what they do and what they offer. What is proposed in the next chapter is to clarify these terms through a careful investigation into what Gold (1993 and 2003) and Umbreit (1997 and 2001) mean when they use 'spiritual' or 'spirituality' in the context of mediation. The analysis is limited to these two authors and that confusion over what transliterated spirituality means may still persist. However, close textual analysis will at least generate meanings that are more evidence based and therefore will contribute to the ongoing endeavour of seeking a clear definition to be used in the Japanese-speaking mediation context.



## 3 Textual analysis of the meanings of ‘spirituality’ used by Lois Gold and Mark S. Umbreit

### 3.1 Introduction

In the English-speaking mediation context, the terms spiritual and spirituality are somewhat ill-defined (see for instance, Jones, 2009). The present thesis argues, because of the lack of meaning, Fujioka (2007) translated the same term by using two different Japanese terms which are *seishin* and transliterated spirituality. Although Goldberg and Blancke (2011: 386 and 2012) have suggested that there are needs to establish whether there is a market demand for mediation described using the terms spiritual or spirituality and to research on whether mediators are willing to have a frank and open conversation with their prospective clients in this regard. However, without first establishing the meaning of those terms, such a study cannot be conducted.

In order to examine whether the notion of spirituality used by Lois Gold and Mark S. Umbreit is accurately conveyed by the currently applied translations in the Japanese language, this chapter conducts textual analysis so that to establish how the English terms spiritual or spirituality have been used by Gold (1993 and 2003) and Umbreit (1997 and 2001) in the mediation context and what those authors are trying to convey by those terms. One of the central questions in this chapter is whether their use of the terms spiritual or spirituality creates a new category of professional mediators who would not fall in any existing models or whether they are simply expressing their own beliefs or views which, as a result, resonate with their mediation practice as a faith-based mediation once shared with their clients. Either way, the primary focus of this chapter remains to generate the meanings of those terms used by Lois Gold and Mark S. Umbreit.

### 3.2 In conducting textual analysis

Before moving onto the analyses, this section signposts how the analyses are conducted. At foremost, it is important to refer Ishikawa (2010) who discussed extensively about transliterated spirituality as a translation for the English term spirituality used in psychotherapy in Japan. According to his analyses, the term transliterated spirituality, albeit

limiting to the Japanese-speaking psychotherapy context, appears to be ineffable and as a result loses its meaning once it became subject to linguistic analyses (Ishikawa, 2010: 237). Likewise, in the context of mediation, transliterated spirituality may not bear one universal definition due to such a nature. However, the reason transliterated spirituality does not lose its place in the psychotherapy context at the time of writing in 2010 is in the passion of the users who *experienced* the phenomenon (Ishikawa, 2010: 239 emphasis added). Accordingly, in order to understand the meaning of transliterated spirituality used by Lois Gold and Mark S. Umbreit, seeing through the experience itself as closely as possible to the experiencer is important. The textual analysis in this chapter takes this academic opinion in presenting its findings.

In pursuing how individuals understand spirituality, the term comprises the possibility of another, contextual reality, contextual and personal experiences of a unique kind of connectedness. It has been suggested that, “a coherent use of the term spirituality in future research might therefore comprise spirituality understood as a *context-bound experience of relatedness to a vertical transcendent reality*” (la Cour, Ausker, and Hvidt, 2012: 80 emphasis in the original). In other words, “the term spirituality is not used without an indication, notions or keywords of what is meant by the term in a specific context” (la Cour, Ausker, and Hvidt, 2012: 63; see also King, 1996: 345). However, the exact meanings of those terms remain vague despite its frequent uses in mediation publications in the English language and this is perhaps why when translating into Japanese, scholars have used different terminologies (for example, Fujioka, 2007).

There are three main difficulties with defining spirituality. First, it only has a limited meaning as the definition depends on the context in which the term is analysed. Secondly, its usage in different contexts nonetheless shares some commonalities. Finally, there is no generalised definition because it is subjective, although as Egan et al. (2011:309) point out, this subjectivity can be researched. For the purposes of this thesis, such definitional difficulties are not a significant hindrance as long as the analyses can identify some of the shared conceptual understandings of the term (Egan et al., 2011: 309 by citing Harris, et al., 2008: 39).

The notion of using spirituality is already in Japanese-speaking mediation context and can be defined by analysing the original texts that introduced it to this context. Umbreit himself came to Japan in 2001 and 2017 to train mediators, and Japanese mediators went to overseas to receive his trainings (Ishihara, 2017a). His book has been used both in various dispute resolution scenes including school mediation, community mediation or mediation with administrative bodies and as a part of preventive measure such as abuse and bullying (Yasukawa and Ishihara, 2014). His publications have had a significant impact on some of the Japanese-speaking mediation practice. Although the analysis primarily focuses on publications by Lois Gold and Mark S. Umbreit, their use of the terms spiritual or spirituality should display some commonality to their use in other publications. However, while the purpose of this chapter is to discover ‘shared conceptual understandings’ in Gold and Umbreit, at the same time, its intention is not to generate a universal definition of those English terms used in the mediation context.

When analysing the publications by Lois Gold and Mark S. Umbreit, these authors’ nationalities, first language, cultural, religious and educational backgrounds and family circumstances remain unknown. However, such personal information should not colour what they express in their publications. To put it simply, and at the risk of oversimplification, the biographical details of these authors should not be significant factors in terms of understanding and analysing what they are trying to convey in their publication as professional.

The textual analysis presented in this chapter follows the view of Principe (1983: 129) who argues that there is a certain fluidity in the use of the term spiritual or spirituality and presents three levels of investigating spirituality. Before this thesis addressing its analyses at his third level which is the study by scholars of the first two levels of spirituality (Principe, 1983: 135-136),<sup>75</sup> “what should be included in such study” must be addressed (Principe, 1983: 137). The answer to that question is, “depending on how each scholar understands ‘spirituality’” because such a study is based on an ideology in which the spirituality at stake is linked to certain belief-systems or theologies (Principe, 1983: 137). As the context for the analysis in this chapter is mediation, it is the mediators’ views that are of relevance. While it is acknowledged that the meaning of spirituality as conveyed in the text will to some extent

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<sup>75</sup> Principe’s three levels were already discussed in Chapter 1.

be very personal, at the same time the authors' views are not being sought directly such as through interviews.

Principe (1983: 138) defended this kind of research approach by arguing that the spirituality of an individual or group, including its dynamics and the origins of that spirituality, can be studied without an understanding of the total context. While theologians may analyse the concept in terms of theological principles, religious studies scholars would seek to present a hypothetical description of studied spiritualities within the respective disciplines by "using principles of interpretation and judgment derived from human reason alone" (Principe, 1983: 139-140).<sup>76</sup> In this investigation into how Lois Gold and Mark S. Umbreit use the terms spiritual and spirituality and what they mean by those terms, an analysis of their writing is considered to be sufficient unto itself, without direct communication with them. The analysis is able to understand the intended meaning without intervening the original intentions of the target authors at the time of their writing.

By analysing the publications of these two authors, this chapter generates the core precepts of those terms which then allow the suitability of the currently applied translations to be evaluated in the following chapter. The purpose of this textual analysis does not include testing those two authors' claims empirically. In fact, Umbreit (2001) himself declared the underlying principles of his practice model, humanistic mediation, are not subject to any empirical testing as they originate from the values and beliefs of the mediator who uses the model.

### **3.3 Textual analysis of writings by Lois Gold and Mark S. Umbreit**

#### **3.3.1 The eight core precepts found in Lois Gold and Mark S. Umbreit**

This analysis focuses on four publications on mediation and spirituality, two written by Lois Gold (1993 and 2003) and two written by Mark S. Umbreit (1997 and 2001). The target readers of these texts can be fellow mediators, academics, researchers and anyone with an interest in the profession. The purpose of these publications was to express and circulate

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<sup>76</sup> This is the approach de Souza (2016) adopts in seeking to generate common themes of spirituality across different academic disciplines.

their personal, professional and academic perspectives regarding their experiences as professional mediators. When formulating his humanistic mediation model, Umbreit (1997) acknowledges drawing heavily on Gold (1993) so not surprisingly there is a high degree of commonality both in terms of themes and arguments. The core precepts are as follows.

First, spirituality in their context of mediation is not limited to any particular culture and thus is not restricted to indigenous or non-indigenous mediation.

Secondly, spirituality can include religion, be part of religion, be independent from religion or be interchangeable with religion. Mediators who use those terms to describe their views on mediation are either different from or the same as faith-based mediators at a time.

Thirdly, who mediates matters because how a mediator faces their inner self influences their external relationship with others, which then has an impact on the internal and external relationships of their clients through communication. This deep internal relationship with one's own inner self extends to one's soul or spirit.

Fourthly, such influences, whether communicated semantically and non-semantically, through mediators' presence, can shape or change a client's views.

Fifthly, spirituality recognises such influences have levels and that clients' consciousness can be shifted to a higher level through settling their disputes; such a shift or transformation of consciousness can happen as a result of connectedness with a mediator who attends the mediation with their whole self.

Sixthly, this kind of shift tends to be facilitated best when the mediator creates a safe or sacred space.

Seventh, the sense of the sacred in the mediation session, which is expressed by using the terms spiritual and spirituality, is not necessarily associated with any specific religious doctrine or faith.

And finally, when the terms spiritual or spirituality are used by mediators, this does not imply adherence to any specific mediation model.

Although there are similarities between them, the two authors' contributions are also distinct. Therefore, they are analysed separately, with a particular focus on the second precept, which is central to this research as, according to Ito (2004), if there is no common religious doctrine underlying their references to transliterated spirituality, the focus has to be on the meanings. In other words, the authors' printed words are the only keys to understand their meanings, since no conceptualisation based on religion or religiosity is possible (Ito, 2004).

Thus, the next two subsections highlight each publication and its respective arguments in relation to these precepts.

### **3.3.2 Lois Gold (1993 and 2003)**

The article published by Lois Gold, a founding board member and past president of the Academy of Family Mediators and also a therapist, in 1993 was then edited and re-published as a chapter in Bowling and Hoffman (2003). Although the two versions are not identical, the main points in both publications are the same and so are generally analysed as being one and the same.<sup>77</sup>

Gold states that the reason for writing the article was because she saw the definition of the role of mediator at that time was preventing mediation from being a healing process albeit different from psychotherapy (Gold, 1993). She acknowledges that some readers may view her suggestions as inappropriate to their mediation practice (Gold, 2003). Central to Gold's conceptualisation of mediation is that she considers it to be a healing process in which love is the unifying principle. In her view, underlying the disputes that mediation users bring to mediation sessions are wounds caused by living in a "soulless state" (Gold, 1993: 59).

In fact, in the revised chapter, Gold (2003: 191) extends her argument about the mediator's presence to the qualities that mediators can bring to their practice. In other words, those

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<sup>77</sup> Reference to significant revisions is flagged up in this thesis if any such revisions were evident.

mediators who do not agree with her view may not accept her references of spirituality in her mediation context and thus do not use her spirituality in their practice.

Based on her mediation experience, Gold (1993: 56-59) identifies four factors that increase effectiveness in mediation: firstly, mediators need to focus on the present case by leaving behind any judgement; secondly, they need to be aware of governing values, beliefs and their higher purpose as a mediator by connecting to their inner self; thirdly, they need to be able to wholly accept their mediation clients, which translates into a sense of connection or rapport in the sessions; and finally, they need to be authentic and fearless as mediators, which means the willingness and ability to reveal who they really are. A mediator's own highest spiritual centre or consciousness influence those factors (Gold, 1993: abstract and 55). Constructing a sense of connection between participating parties is important for the dispute to be settled because the disputing clients can then make their own decision based on their highest intentions (Gold, 1993: 61). In her understanding, the mediator's highest consciousness creates such a connected relationship by maintaining hope and belief in the success of mediation (Gold, 1993: 55).

Gold (2003: 200) further expresses that:

*In very contentious, seemingly unresolvable situations, when I set the intention "May the parties find a path to peace or healing," something in the session shifts. It moves in a more positive, productive direction. I do not understand this, but it does occur. Perhaps it is coincidence or readiness. Perhaps the energy I am projecting changes when I go inside and center on the higher.*

Gold (2003: 210) suggests changing the use or selection of words in mediation practice to convey spirituality or healing. In her view, "[w]hen the mediator projects a sense of reverence for what is sacred in this work, is willing to view the clients from the heart, and can speak to the clients' soul, this work will be healing" (Gold, 1993: 57). Umbreit (2001: 8) describes this as the language of the soul while Gold (2003: 210) herself refers to it as language associated with the spiritual to reach the deeper part of the psyche.

In reframing the reason for the disputing parties' suffering, Gold (2003: 210) suggests that the compromising decision for both parties could be described as, "a healing gesture or as a gift for the "higher good of the group"." By using the medical metaphor of 'wound' and

assimilating her mediation situation to a physician's quote,<sup>78</sup> the procedure is, for her, embedded in the culture of healing, recognising disputes as wounds and the clients as potential physicians. Gold (2003) goes on to explain that her disputing clients have their own mediator within themselves and that her role is simply to direct their consciousness towards their own internal 'mediator' to make a decision.

It would seem therefore that Gold, who is also a therapist, does not intend to heal her mediation clients as a mediator in the way that she would do in her therapy sessions. She states explicitly that the goal of mediation is not to heal the clients (Gold, 1993: 58). Instead, Gold tries to change the clients' perception from harming or attacking the other party, thereby deepening the wound, redirecting the focus to healing or being gentle with the other party, to settle whatever issues brought them to mediation. In such a transition, Gold (1993) argues that incorporating the notion of healing into mediation is an effective tool. What Gold also makes clear in her suggestions of selective language is that the effects of bringing spirituality into one's mediation practice is healing. However, this healing does not occur without a mediator's highest intentions to connect to the disputing clients (Gold, 2003: 210).

Gold (1993 and 2003) sees one's spiritual centre as being at a higher level of consciousness. Coming from one's spiritual centre allows disputing parties to be connected and it is this connectivity that results in healing. In such a state, they see how to settle their issues themselves, yet it is the mediator who can help the disputants to connect at this higher level. According to Gold (1993 and 2003), therefore, to bring about harmony, mediators also have to be aware of their own spiritual centres, to focus and state their intentions in the actual session in a similar manner to making prayers. Her key insight is the need for the sacred in the session and this requires the ability to go inside and be centred in the 'higher' level of consciousness (Gold, 1993: 57 and 62). By citing the well-known quote of Albert Einstein, Gold (2003: 201) stressed that to solve the issue, the disputing parties need to be at a different level from the level at which the issue was created.

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<sup>78</sup> "[p]atients carry their own doctor inside. They come to us not knowing that truth. We are at our best when we give the physician who resides in each patient a chance to work" (Gold, 2003: 213).



So far, Gold (1993 and 2003) does not make any reference to any religious or spiritual doctrines or practices. Instead, these mediation strategies are referred to as “holistic mediation” (Gold, 1993: 55). However, in her suggestions about how to conduct holistic mediation, she does suggest that when it seems an impasse has been reached, the mediator need “to ask participants who are stuck to go home and pray or ask for guidance”. Through communion with “whatever is a spiritual sourcing”, by prayer or calling for the guidance (Gold, 2003: 202), both the mediator and the clients can change their perceptions. Gold (2003) sees such holistic mediation as applicable to any cultural group and indeed, she draws on various sources, cultures and traditions: Buddhism, German poets, Mennonite tradition, Native Americans, Quakers, shamanism and healing traditions from Brazil to Bali.

By not limiting her use of spirituality to any particular culture but embedding it as a part of her holistic mediation, what Gold (1993 and 2003) emphasises is the importance of healing; and such healing, which leads to the settling of disputes, is possible by using the spiritual centre. Thus, her holistic mediation is not culture specific and nor does it form a unified model of mediation (Gold, 1993: 65). What is clear from her writing is her willingness to draw mediators, regardless of their practice models or their cultural or religious backgrounds, to adopting a holistic approach to dispute resolution through using what she refers to as their higher-self or spiritual centre (Gold, 1993: 65). Doing so allows participants, including the mediator, to look within and to shift to the different level to find their own solutions.<sup>79</sup>

The theories of mediation do not normally extend to the role of whom mediates (Bowling and Hoffman, 2003; Roberts and Palmer, 2005; Simmel, 1950). Lois Gold (2003: 212) clarified her view on this point by stating that not all readers accept her proposals because they can be “inappropriate to a goal-oriented, structured, strategy-driven mediation”. In this regard, Umbreit categorised his suggestions as an independent mediation model, the Humanistic Mediation Model (1997: 211 and 2002: 7), in which beliefs and values are not subjected to any empirical testing and mediators *can* choose this approach should they wish to. This categorisation allows Umbreit to express his opinions freely at the same time as perhaps

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<sup>79</sup> Gold (2003: 185) distinguished her healing paradigm in mediation from the transformative model by Bush and Folger (1994), which recognised the importance of acknowledgment and empowerment in the mediation process, because the transformative model only emphasises the relational field among the participating parties. This point is discussed further in Chapter 4.

restricting his receptive audience to a limited group of mediators who support and agree with his view and use the model. Gold on the other hand, makes no reference to Umbreit's Humanistic Mediation model, grounding her practice in the importance of healing. This fact together with her disclaimer of not intending to create any particular mediation model based on her healing paradigm, already suggests that spirituality as used by these two authors is not intended to form one specific mediation model.

### **3.3.3 Mark S. Umbreit (1997 and 2001)**

Umbreit's career as a mediator spans 40 years and during this time, he has published books and articles that refer to 'spirituality'; his most recent was published in Northern Ireland in 2012. As with Gold, his main arguments regarding spirituality display no significant change since his first publication in 1997, the contents of which were edited and published as a chapter of his book published in 2001 still remain the same. This book was then translated and published in Japan in 2007 (Fujioka, 2007), which was 6 years after his first training sessions in the country being held in 2001 (Yasukawa and Ishihara, 2014). Then in 2017, Umbreit re-visited to Japan to train Japanese-speaking participants; training sessions were hosted by Ishihara and others at Kumamoto University as well as other in Kyoto (Ishihara, 2017a: 43-45). Therefore, in order to grasp what he means when referring to spirituality, both his 1997 and 2001 publications are analysed as well as Ishihara's Japanese translation (2017b) of Umbreit's video lecture published in 2014.<sup>80</sup>

Like Gold, Umbreit distinguishes deep listening skills from the kind of listening a therapist will offer their clients. For Umbreit (2001), mediation work should be aiming for a form of settlement that is beyond dispute resolution. Umbreit sees his role as underpinned by a spiritual dimension, which he describes as, "the search for a deeper meaning and purpose in life and the circumstances that we now face, an honoring of the sacred gift of life, and a yearning for a greater connectedness with other beings and, for some, a higher being and all of creation" (Umbreit, 2001: 258). This does not mean that his role as a mediator is any different from other mediators, however.

Combining insights from his own mediation experiences with Carl Roger's humanistic approach in psychotherapy (Umbreit, 1997), Umbreit has been advocating his humanistic

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<sup>80</sup> The lecture is available at <https://vimeo.com/111253366>. In this chapter, Ishihara's (2017b) translation of this lecture is used only as supplemental to what Umbreit claims in his publications of 2001 which is an edited version of his 1997 article.

model since the 1990s. Whilst acknowledging the influence of the psychotherapeutic approach, however, Umbreit's approach to mediation has become established independently and distinguished from psychotherapy (Umbreit, 2001: 7).

Developed also in parallel to Bush and Folger's (1994) transformative model (Lewis and Umbreit, 2015; Umbreit, 2001), his model is not entirely dissimilar to the transformative model. In his 2017 lectures in Japan, he introduced his model as a humanistic 'approach' to mediation and dialogue (Ishihara, 2017b).<sup>81</sup> Umbreit now emphasises generic approaches which any mediator can take in their mediation sessions. In formulating his Humanistic Mediation Model, Umbreit (1997 and 2001) draws from indigenous conflict resolution which uses grounded spirituality through forms of healing and peacebuilding techniques that are shared across a variety of cultures. He lists native Hawaiian people who practice ho'oponopono, Maori people of New Zealand, First Nation people in Canada and Native American people in the USA, as the traditions that are particularly attuned to what his humanistic mediation model promotes (Umbreit, 2001: 5). However, he admits that such an application of spirituality in mediation models used in non-indigenous mediation "clearly not capturing the full spiritual richness of many traditional practices of indigenous people" (Umbreit, 2001: 9).

Also drawing on Gold's Paradigm of Healing (1993), Umbreit emphasises the importance of creating a safe and sacred space for humanistic mediation so that disputants feel safe to disclose and reveal their true feelings (Umbreit, 2001: 8). In other publications, Umbreit (1997 and 2012) explains how a safe and sacred space enables dialogue to 'flow out' (1997 and 2012). In other words, dialogues can occur naturally instead of being initiated or instructed by the mediator (Umbreit, 1997: 206).

Drawing on spirituality in mediation requires him as a mediator to work with the clients' storytelling process by being fully present, refraining from controlling or judging those stories (Ishihara, 2017b: 34). It involves working with his own and his clients' energy of conflict, which is influenced by the mediator's presence (Ishihara, 2017b: 34). The use of non-verbal language, the being of the mediator in other words (Ishihara, 2017b: 32), can

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<sup>81</sup> For his most recent account on this model, please refer to Lewis and Umbreit (2015). This article was not published at the time Fujioka (2007) translating the book by Umbreit (2001).

allow the energy of healing and forgiveness to flow between the disputants and lead them to the settlement of the dispute (Ishihara, 2017b).

The notion of centring is important in Umbreit's account of the mediator's role. He believes that to undertake this work, mediators themselves need to stay centred by reflecting on the meanings of their own mediation work (Umbreit, 1997: 206). The 1997 article recommends creating moments of silence by using self-reflection, meditation or prayer; the 2001 publication omits the detail, simply recommending "a few moments of silence" (Umbreit, 2001: 10).

Umbreit also identifies the importance of non-verbal communication both external and internal to the mediator's body, being sensitive to the clients' needs by creating a safe space, and some sort of 'level' of human values. Non-verbal language consists of deeper listening through which unspoken dialogues can take place that all the participants in the mediation session feel with their hearts as well as understand with their heads (Ishihara, 2017b).<sup>82</sup>

Speaking about spirituality as being one dimension of mediation, Umbreit (2001: 239) refuses to generalise its application to all his clients as there are some who find no meaning in religion and spirituality. Nonetheless, he posits that religions can provide a bridge to the spiritual but at the same time, the spiritual exists beyond each doctrine (Umbreit, 2001: 258, citing Remen, 1998). Because of individual differences in understanding, anchoring and the need to respect spirituality or religion as well as the spiritual, mediators must never enforce their own views in terms of the spiritual dimension (Umbreit, 2001: 239). Based on his writing, it is clear that in his view religions can include spirituality and that the two can be used interchangeably, depending on the clients rather than on the mediator's views or opinions.

As has been explained, the work of Gold and Umbreit was chosen for analysis because their references to the terms spiritual or spirituality have been translated into Japanese. Umbreit's humanistic model, which is now also described by Umbreit himself as a humanistic approach to mediation (Ishihara, 2017b), inspired by the paradigm of healing proposed by

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<sup>82</sup> The similar point was already suggested by Simmel (1950: 149) as; "[s]uch mediations do not even have to be performed by means of words. A gesture, a way of listening, the mood that radiates from a particular [mediator], are enough to change the difference between two [disputants]".

Gold (1993).<sup>83</sup> Although the two share a number of commonalities and Umbreit (2001) praises the paradigm as helping to understand his humanistic model of mediation better, their differences should not be ignored. Although both refer to the importance of spirituality in their arguments, Gold stresses the importance of healing while Umbreit emphasises the significance of the mediator's presence in the mediation sessions.

The differences in their arguments suggest that the terms spiritual or spirituality indicate something similar between their mediation strategies, rather than forming one mediation model or creating a category of mediators. Consequently, describing the mediation process with those terms is not limited to mediators, but their clients, prospective ones or anyone who recognises "the precious gift of human existence, relationships, community, and the deeper spiritual connectedness among all of us in our collective journey through this life, regardless of religious, cultural, political, and lifestyle differences" (Umbreit, 2001: 8). Based on this recognition, Umbreit appraises Gold's healing paradigm, which he saw as containing "enormous implications for humanistic mediation practice in any context in which the nature of the conflict relates to broken relationships" (Umbreit, 2001: 7).

Despite their differences in each argument, Gold and Umbreit share the terms spiritual or spirituality which were summarised as the eight precepts in 3.3.1 above. The analysis of these texts supports the suggestion by Hense (2011) that minor components and forms of spirituality are embedded in the social aspect of language. Both Gold and Umbreit used those terms to express the components in their language by sharing those precepts, but such shared core precepts do not mean that their arguments are the same. The terms spiritual and spirituality are used as tools to convey one element of their professional views as mediators. This discovery of the component parts is the purpose of textual analysis (Karcic, 2006).

When each reference to the terms spiritual or spirituality is considered in a pragmatic manner, such as by cross-referencing to other mediation articles in English that also refer to those terms, their meaning can be understood much more profoundly and critically. Such

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<sup>83</sup> In his exact wordings, "[U]nderstanding and practicing humanistic mediation in the context of the paradigm of healing offered by Gold is ultimately grounded in a profound recognition of the precious gift of human existence, relationships, community, and the deeper spiritual connectedness among all of us in our collective journey through this life, regardless of religious, cultural, political, and lifestyle differences" (Umbreit, 2001: 8).

analysis runs the risk of making the exact meaning in the context of mediation even more elusive. Moreover, as has already been illustrated in this section, the terminology is intrinsically context bound. It is nonetheless hoped that the analysis can contribute to understanding these terms as used in the context of mediation, thereby bringing some clarity and dispelling some of the ambiguity. On the other hand, if the meaning is indeed fluid and the ineffability cannot be eliminated, the terms used as equivalences in Japanese language need to reflect this quality.

Therefore, the next section examines and interprets the component parts as well as the whole arguments by discussing those eight precepts in the context of English-speaking mediation.

### **3.4 Discussing the generated eight core precepts in the context of English-speaking mediation**

During the literature search conducted for the purposes of this thesis, more than 32 articles were found aside from Gold and Umbreit's work, that discuss spirituality in the context of mediation. Published in the English language between 1987 and 2017, these articles were written in Australia, China, Ethiopia, India, New Zealand, Northern Ireland, Sierra Leone, Taiwan, Tanzania, Turkey and the USA. In order to understand Gold (1993 and 2003) and Umbreit (1997 and 2001) more thoroughly, the generated eight core precepts are considered below in a wider context by referring to the other English language publications. Each subsection focuses on one of the precepts identified in 3.3.1 to understand the implications of the precepts in the context of mediation.

#### **3.4.1 Spirituality in the context of mediation is not limited to any particular culture such as indigenous or non-indigenous mediation**

As discovered in the previous section, Gold and Umbreit do not limit what they describe as spirituality to non-indigenous mediation. However, as clear from what Umbreit (2001: 9) acknowledged, spirituality used in indigenous and non-indigenous mediation are not the same but on the same spectrum.

Comparing non-indigenous and indigenous mediation in terms of spirituality, Walker (1999: 17-18) argued that while spirituality in non-indigenous mediation was considered as optional or viewed with scepticism, indigenous mediation, which she saw as being closer to peacebuilding in nature, fully integrated their spirituality into the process. In 2007 when the notion of using the terms spiritual or spirituality was introduced to the Japanese-speaking mediation context, Walker (2007: 27) still declared that in non-indigenous mediation, spirituality was only mentioned by a “minority of practitioners and scholars (notably Gold, 1993, and Umbreit, 1997)”. Even though she acknowledged that these two authors belonged to the minority of mediators who did mention the importance of spirituality in their practice, she did not change her original argument regarding the contrast between spirituality in indigenous and non-indigenous mediation.

Walker’s declaration made in 2007, albeit limited to the English-speaking context, does not reflect the development of mediation as an academic field or a professional practice. Although not in great numbers, there has been a steady stream of articles being published (Bowling and Hoffman, 2003: 43).<sup>84</sup> As of 2019, there are more than 34 publications on the topic available in the English language. As a result, the gap between spirituality in indigenous and non-indigenous mediation has narrowed and at the same time, the finer differences between the two have emerged (Barnes, 1994; Huber, 1993; Matthews-Giba, 2000; Umbreit, 1997). This is not to deny the validity of Walker’s viewpoint. Rather, by discussing these different perspectives, this subsection deepens understanding about the first precept generated from the textual analysis.

In the same year that Gold (1993) published her article, five other articles were published in the field of non-indigenous mediation that used the terms spiritual or spirituality.<sup>85</sup> Like Shook and Kwan (1987), Huber (1993) wrote about spirituality in the context of indigenous mediation while the other four are in non-indigenous mediation. Despite the different mediation contexts, these five articles display strong similarities, in that they all emphasise the importance of feeling connected.

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<sup>84</sup> However, over the period of this research, no criticisms have been published against any of those publications. Thus, republishing the edited versions of earlier articles is done without receiving the published counter opinions. This may indicate the topic itself do not attract academic debates in Mediation.

<sup>85</sup> Those are Lapin (1993), Chupp (1993), Huber (1993), Zumeta (1993), and Saposnek (1993) in a descending order.

There are of course, differences. For example, in indigenous mediation, spirituality includes reference to the spirit of the ancestors and the power and wisdom of the elders, who are seen as highly spiritual and therefore are conferred the role of mediator. On the other hand, spirituality in non-indigenous mediation stresses the significance of the internal self of all participants in the mediation process and no reference is made to accessing the spirits of the ancestors or conferring special spiritual power on elders to mediate. In non-indigenous mediation, spirituality is associated with a shift to a higher level of consciousness or to a sense of height as a result of connecting to one another in a mediation session; no such references were made when describing indigenous mediation.<sup>86</sup>

Walker (1999) effectively observed two spiritualities in the respective mediation contexts as different, yet the differences are, in fact, in what each author tried to convey by using the terms spiritual and spirituality. For example, up to 1993, the spiritualities used in non-indigenous and indigenous mediation remained separated (Shook and Kwan, 1987; Huber, 1993; Walker, 1999). Huber (1993) proposed the partial application of the Medicine Wheel, which was originally used by First Nation people in Canada and now by non-aboriginal people as well to solve disputes, in non-indigenous mediation provided that the attendees of mediation understand and respect the notion reflected on the Wheel.<sup>87</sup> Barnes (1994) also stresses that the pacific model is used in cross-cultural mediation by integrating indigenous spirituality into non-indigenous mediation practice. In a similar manner, ho'oponopono has been used in non-indigenous mediation practice (Goldberg and Blancke, 2012).

This division once existed between spiritualities of indigenous and non-indigenous mediation certainly does not mean that indigenous communities, which share the same 'spirituality' in Walker's (1999 and 2007) definition, do not have disputes with other different indigenous communities. In fact, they do not share the same mediation practice; each has developed own mediation which uses spirituality. Fisher (2000) claims that in many indigenous communities, symbols are used in mediation to bridge the differences which

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<sup>86</sup> This point is discussed in the fifth precept below.

<sup>87</sup> Huber (1993: 364) cautioned that the model being used in the mediation involving non-Aboriginal parties may result in "a disrespectful appropriation of cultural heritage". In addition, an application of this model requires a cautious approach in the context of mediating Aboriginal people who have exposed to urban culture which contain many different 'cultures' of non-Aboriginal people (Huber, 1993: 364). For using the model in the non-Aboriginal disputes, Huber (1993: 364-365) suggested to extract some components as its concepts alone and not to refer the entire wheel.



have caused the dispute. The symbols allow mediators to approach the spiritual dimension of the disputants, which is equated by Fisher with the soul (see also, Wolf, 2017).

Since 2000, there has been an increase in the mention of spirituality in relation to mediation, and there seems to be a growing consensus about the importance of approaching the disputants as human beings with souls, regardless of their personal backgrounds (see for instance, Cloke, 2005; Gold, 2003; Goldberg and Blancke, 2012; Hoffman, 2006; Jurevic, 2000; Nan, 2011; Umbreit, 2001; and Wolf, 2017). As Umbreit (2001) has stated, perhaps the issue with spirituality in the mediation context is not about how to define it but whether people recognise it.

What is missing from these articles is any reference to previous publications that refer to spirituality to seek or form a definition. This suggests that the authors' primary intention is not to create or formulate the integrated meaning of spirituality in the English-speaking mediation context; they simply use the term in the arguments so that to emphasise the important points they make in their publications. In other words, in these other English language publications on mediation as well, spirituality is embedded in their main arguments rather than being the main subject of the discussion itself (Hense, 2011).

In the context of mediation concerning English language resources, the meanings of the terms spiritual or spirituality are indeed context dependent, or, more accurately, user dependent. The distinction Walker (1999) draws between spirituality in indigenous cultures and non-indigenous cultures remains persuasive. At the same time, Barnes' (1994) proposed integration of spirituality into non-indigenous mediation is also persuasive considering its effectiveness as expressed by Shook and Kwan (1987). In addition, the risks of resulting in "a disrespectful appropriation of cultural heritage" cautioned by Huber (1993: 364) can only be avoided by understanding the nature of mediation practice. Mediators then need to explain what spirituality means in their context of their mediation.<sup>88</sup> The first precept found in Gold (1993) and Umbreit (1997 and 2001) seemingly illustrates the current position between indigenous and non-indigenous mediation over spirituality, by emphasising the similarities instead of the differences.

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<sup>88</sup> This point further becomes evident in the next subsection.

### **3.4.2 Spirituality can include religion, be a part of religion, be independent from religion or be interchangeable with religion**

The second precept generated from Gold (1993 and 2003) and Umbreit (1997 and 2001) seems to reflect the diverse academic views of mediators. The context of mediation allows four types of spirituality to coexist: spirituality includes or overlaps with religious faiths or non-religious faiths; religions can include spirituality; spirituality is different from religious faiths; and spirituality is the same as religion. Some mediators also have confirmed that what is spiritual about mediation can be religious at the same time (Menkel-Meadow, 2003; Bowling and Hoffman, 2003; Cloke, 2005; Lichtenstein, 2005; Hoffman, 2006; Jones and Georgakopoulos, 2009; Jones, 2009; Nun, 2011; Goldberg and Blancke, 2012; and Hoffman and Wolman, 2013). Spirituality is a part of religious belief (Tauscher, 2003), but could be at the same time independent of religious belief (Gold, 2003; Umbreit, 2001 and 2005; Mayer and Boness, 2011), or interchangeable with religious belief (Matthews-Giba, 2000; Turay, 2000; Umbreit, 2001; Jones and Georgakopoulos, 2009; Goldberg and Blancke, 2011; Ollapally, 2011; Bobrowski, Timor, and Ronel, 2017).

Nonetheless, these different views about the relationship between spirituality and religion do not necessarily reflect the authors' personal religious beliefs (for instance, Lapin, 1993; Menkel-Meadow, 2001). Even in the same publication, spirituality is used to mean either different from or interchangeable with religions at the time (see Umbreit, 2001 and 2005; and also, Jones and Georgakopoulos, 2009). The divisions described between spirituality and religion depend on what the author wants to convey. While the expression is a matter for each mediator, choosing the terms spiritual or spirituality to describe their practice may be considered as emphasising that spirituality in mediation means something different from spirituality in faith-based mediation. If the mediation practice is specifically driven by a religious faith or faith expressed by the term spirituality, such mediation is categorised as faith-based mediation (Goldberg, 2016). Tauscher (2003) considers spirituality as a part of religious beliefs so in this instance, spirituality appears to be a part of faith-based mediation. Tauscher's spirituality is categorised differently when comparing to the spirituality used in indigenous mediation.

In an article about indigenous mediation in Hawaii, the terms spiritual or spirituality are used, and the authors explain that there was not a specific word for religion before the Westerner came (Shook and Kwan, 1987: 5). Shook and Kwan (1987), who consider the spiritual

influences are central to the native Hawaiian mediation method, ho'oponopono, use the term spirituality to describe something inseparable from one's life, accessible through ancestors' spirits, beyond the physical world and perceived in every part of the social order in the community in which ho'oponopono is used. Similarly, Huber (1993) and Walker (2001) describe how the notion of spirituality is embedded in specific cultures and emphasise the importance of the relationship with religion, whether in the context of non-indigenous or indigenous mediation. In these instances, spirituality used by these authors do not form part of religious faith.

It is also important to emphasise that when referring to spirituality, mediators are not necessarily aligning themselves with any particular faith. Umbreit (2001: 258) suggests that mediators should never initiate any issues in relation to spirituality based on their own perceptions. Mediators interviewed in Jones's research (2009) also reported that they would not share their views on spirituality with their prospective clients. If a particular faith is being used as a guiding force in the mediation session, all parties, including the mediator, need to know. Indeed, faith-based mediation would not work without such a common, shared recognition of the framework that is being used in the mediation sessions. However, these mediators who intentionally use the terms spiritual or spirituality are not necessarily willing to make their mediation faith based. In other words, their personal views which are expressed by the term spirituality do not become their practice base.

When Gold refers to spirituality in the context of mediation, it can "encompass the values of compassion, right action, forgiveness, an inclusiveness that are the basis of all spiritual practices" (Gold, 2003: 186). However, there is no need "to adopt any type of religious orientation" (Gold, 2003: 186; see also Ollapally, 2011). Once a religious orientation is adopted and shared with attending parties, it becomes faith-based mediation. By not specifying the source or origin of the spiritual practices, Gold's (2003) spirituality has made it possible for mediators to work with clients from any religious background, without discrimination (see also, Menkel-Meadow, 2001).

Similarly, Umbreit's (2001: 258) spirituality is inclusive of those who believe in a higher being and all of creation as well as those who do not. By not limiting their spirituality to a particular faith, both authors tried to engage in settling disputes based on "the precious gift of human

existence, relationships, community, and the deeper spiritual connectedness among all of us in our collective journey through this life, regardless of religious, cultural, political, and lifestyle differences” (Umbreit, 2001: 8). This approach avoids the risk in dispute resolution that religion can and will lead to “division and intolerance” (Goldberg and Blancke, 2011: 377; see also Bercovitch and Kadayifci-Orellana, 2009).

Smith (2010) defined the major difference between religion and spirituality as the former being institutionalised and the latter free-floating (see also, Webster, 2012). A notion seems to become a religious principle of a kind when it is communicated and shared among people (Aston, 1905: 5). By also taking these religious scholars’ views into consideration, treating religion and spirituality as one or separately in the context of mediation only becomes problematic when it is the cause of the dispute. When there is no such a risk, the approach to spirituality in the session can be inclusive of individuals’ religious allegiance to Christianity, Islam or Buddhism or any religious or faith practice that has been mutually agreed, shared or respected by the mediator and clients to achieve the purpose, which is to settle the dispute.

### **3.4.3 Who mediates matters due to spirituality**

As mentioned in the previous section, the theories of mediation do not normally extend to the role of whom mediates (Bowling and Hoffman, 2003; Roberts and Palmer, 2005; Simmel, 1950). Even then, some mediators have asked; “don’t we need to look at *‘being a mediator’* rather than just *‘doing mediation’*?” (Bowling and Hoffman, 2003; Fox, 2004 as cited in Goldberg and Blancke, 2011: 377; see also Jones, 2009).

Who mediates matters because how a mediator faces their inner self will influence their external relationship with others, which then has an impact on the client’s internal and external relationships through the communication that takes place in the mediation sessions. This precept has also been expressed using the terms spiritual or spirituality by Lapin (1993), Chupp (1993), Saposnek (1993b), Gold (1993 and 2003), Bowling and Hoffman (2003), Umbreit (1997; 2001; 2005), Cloke (2005), Jones (2009), Nan (2011), Nun (2011), Ollapally (2011), and Roche (2017). A similar idea to using spirituality in mediation, which is to use intention in mediation, appears in an article written by Davis (1989: 21) who proposes that successful mediation outcomes occur due to the hopes of the mediators. In addition, Phillips (2001), Sidy (1996 as cited in Jones and Georgakopoulos, 2009) and Moore (2014) also refer

to the importance of a mediator's energies focused on bringing about a shift in consciousness, which then leads to settlement.

The deep internal relationship with one's own inner self, in some authors' accounts, extends to one's soul (Lapin, 1993 and Nan, 2011) or spirit (Umbreit, 2005; Cloke, 2005; and Goldberg and Blancke, 2012). Thus, Wolf (2017) equates spirituality with harmony when used in the mediation context. Jones (2009) phrased this notion as who mediates matters because mediation is spiritual in nature.

Although Wolf (2017: 25) emphasises that his view of spirituality in the context of mediation is to separate the spirituality of the mediator from the mediation process, in a latter chapter, he then proposed how important it is for mediators to reflect on themselves. He suggests that mediators should reflect on whether they have any internal conflict and ask if the outcomes or discussions of the mediation that they are conducting accommodate the mediator's spiritual life (Wolf, 2017: 76-68). By explaining mindfulness as "the practice of bringing one's attention to whatever is unfolding in the present moment" (Wolf, 2017: 77), Wolf's view is that spiritual approaches in mediation include mindfulness of the mediation participants, including the mediator (Wolf, 2017: 76-78).

Paying attention and listening to the internal voices of clients is also emphasised by Cloke (2005), and the importance of being fully present as a mediator is also discussed by Lapin (1993), Zumeta (1993 and 2017), Nan (2011) and Nun (2011). Wolf's attempt, although failed, to separate the notion of who mediates matters from mediation being spiritual in nature, led to illustrating how important the mediator's spirituality is in providing mediation. In other words, Wolf (2017) argues that spirituality improves mediation.

The contradiction between who mediates and how to mediate is further illustrated by Hoffman (2006). When a bill was passed to certify mediators, who had worked for a minimum of five years in Massachusetts, USA, the ADR community of the state successfully vetoed the legislation. Although there was a recognised need for such a certification scheme, Hoffman (2006: 470) draws attention to the limitations of a certification system that is only based on one criterium, in the case of Massachusetts, five years of mediation experience. Given the complexity and nature of mediation, certifying mediators by simply focusing on

the length of mediation practice could reduce the quality of mediation provision, although at the same time, it could ensure uniformity and establish mediation as a profession (Hoffman, 2006). This same point was also made by a participant mediator in the study conducted by Jones (2009).

A better certification scheme would be one that values training. For example, in England and Wales, family mediation trainings are regulated and the accreditation to conduct Mediation Information and Assessment Meetings ('MIAM') can only be granted to those who have attended and completed certain trainings. Mediators who undertake MIAMs have worked toward their accreditation by completing a foundation training, fulfilling the accreditation requirements, including the submission of a portfolio, and satisfied post-accreditation conditions (Family Mediation Council, 2019). In this case, the accreditation is conferred based on the mediator's training and practice evidence instead of simply the length of time they have been mediating. The vital issue, in Hoffman's view (2006), is the lack of consensus of what mediation is, due to the emphasis on the breadth of service.

Nonetheless, Hoffman (2006) viewed a certification scheme as important, particularly if it is underpinned by an awareness and deep understanding of mediation practice. Based on the same awareness and understanding, practitioners experience how influential their beings are on their clients during their mediation sessions, which they describe as 'spiritual'. This leads to the question stated at the beginning of this subsection: "don't we need to look at '*being* a mediator' rather than just 'doing mediation'?" (Bowling and Hoffman, 2003; Fox, 2004 as cited in Goldberg and Blancke, 2011: 377; see also Jones, 2009).

Taking these academic and professional opinions into consideration with regards to the relationship between who mediates and how to mediate, raised in the context of mediation, the claim 'who mediates matters due to spirituality' may already appear to be contradictory, if not controversial, relative to mediation practice. It suggests that the question about who mediates matter based on the notion of using spirituality in the context has not originated in the study of mediation but pertains to the study of spirituality. This disciplinary misplacement, which locates the argument about the use of spirituality in mediation rather

than in spirituality itself,<sup>89</sup> makes the most important point in their argument rather ambiguous since they do not explain what they mean when referring to spirituality, which is only a component of whole.

The argument of who mediates matters connotes that a mediator can influence their clients in reaching resolution by maintaining a deep internal relationship with their own inner self, referred to as soul or spirit. The reference to soul or spirit has spiritual implications and, thus, this argument relates to a discipline of spirituality rather than mediation. By changing the nature of argument from mediation theories and practices to what each mediator tries to convey by the term spiritual or spirituality, the illustration further clarifies that the way of being a mediator influences mediation practice. How the mediator's way of being influences their practice is summarised as the fourth precept, which discussed in the next section.

Before moving onto the next precept, it is important to summarise what has become apparent through the analysis so far. As Umbreit (2001) has claimed, what mediators feel, believe or value does not need to become subject to empirical testing, as when they express their personal and professional values and beliefs in their publications. Umbreit posits that spiritual experiences lose certain qualities as soon as they are analysed, quantified, distinguished, measured or enumerated. This is echoed by Cloke (2005) when he associates the nature of spirituality to the feeling of love.

Therefore, regarding the research aim, which is to analyse the suitability of the currently applied Japanese translations of the writings of Gold (1993 and 2003) and Umbreit (1997 and 2001), the notion of using spirituality in the mediation context needs also to be discussed in the context of Japanese-speaking mediation. The empirical testing of personal or professional views about mediation regarding effectiveness does not help this research to achieve its aim. What is required is to discuss the notion of spirituality that was introduced to the Japanese-speaking mediation context through the translations of work by Gold (1993 and 2003) and Umbreit (1997 and 2001). This will highlight the extent to which the introduction of the term has contributed to the development of mediation in Japan and the extent to which it has exacerbated existing issues. In doing so, the already identified issues

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<sup>89</sup> Both Jones (2009) and Nun (2011), the two studies discussed in Chapter 2, were in the field of conflict resolution which includes mediation.

arising from the currently applied translations, transliteration as well as *seishin*, can be analysed and discussed in a more pragmatic manner.

#### **3.4.4 Spirituality influences both semantically and non-semantically through mediator's presence**

Several mediators, in addition to Gold (1993 and 2003) and Umbreit (2005), claim that they influence their clients during mediation sessions through both non-semantic and semantic means (see for example Lapin, 1993; Chupp, 1993; Cloke, 2005; Goldberg and Blancke, 2011 and 2012; and Wolf, 2017). Among those, Chupp's definition of non-verbal communication may well illustrate what Gold (1993 and 2003) and Umbreit (2005) mean when they refer to the need for mediators to feel with their hearts as well as understand with their heads. Chupp (1993) claims, by emphasising the importance of spirituality in mediation, that conflict transformation, which leads clients to a settlement, only occurs when there is an internal shift in one's perceptions and when each person's spiritual energy is awakened.

According to Chupp, this internal shift and transformation are not material but something that occurs inside clients and happens as a result of a mediator centring themselves. Centring is defined by Umbreit (2001) as a deeper sense of spirituality, a recognition of one's interconnectedness with others and the sacred gift of their existence. The overlap in perspective between Chupp and Umbreit does not mean that Chupp uses the humanistic model. Indeed, Chupp (1993) does not refer to the humanistic model when describing his practice.

When communication occurs either unilaterally or bilaterally without "the aid of normal communication" (Jackson, 2011: 162) such as by sensing, "what is on someone else's mind and engage with them in mind-to-mind dialogue" (Chamberlain, 2013: 71-72), it is referred to as telepathy. There is much anecdotal evidence of telepathy in human beings, namely adults (Radin, 2009; Sheldrake, 2013; Stevenson, 1970; Palmer, 1979; and Wolman, 1977), fetuses, babies and children (Broughton and Alexander, 1997; Chamberlain, 2013: 71-72; Silverman, 2002; Sullivan, 1953; Recordon, Stratton, and Peters, 1968) and animals (Lesniak, 2006).

As cited in 3.2 above, the term spirituality in the context of mediation may as well be an indication of the mediators' passion as a profession to explain their important experiences



as a mediator in the same manner as psychotherapists do in the context of Japanese-speaking psychotherapy (Ishikawa, 2010). In this regard, it may be useful to refer to the research conducted outside of the mediation context to aid understanding their claims.

Three experiments, which highlight the power of language (Takao et al., 2006 and Radin, 2006 and 2008), should be cited to reiterate what the mediators mean by influencing through semantic communication can also be accepted in the Japanese-speaking mediation context. Those experiments were undertaken after being inspired by the series of publications by Masaru Emoto, a Japanese medical doctor, on 'messages from water' (see mainly, Emoto, 2001/1999). Emoto (2004: 20) reported that "water in harmony with nature produces beautiful crystals and water that are polluted or exposed to certain discordant vibrations do not produce beautiful crystals", and that distilled water exposed to Japanese, "words "Love & Thanks" produced beautiful crystals and the word "Devil" or "You Fool" produced no crystals at all" (Emoto, 2004: 20). In Emoto's view, these differences in crystal formations are something to do with *hado*,<sup>90</sup> which is a Japanese word for, "both energy and vibration at the level of consciousness" (Emoto, 2004: 22).

Emoto's publications have been greatly criticised by the public and fellow academics for their experimental methods and results (Kikuchi, 2016; Yasui, 2006: 963). As Yasui (2006) pointed out, such criticisms have to prove that there is no replication chance by conducting the same experiments as Emoto's, but this thesis has identified no such research article published by counter parties so far. Instead, the following three research, which were conducted respectively by Takao et al. and Radin in 2006 and 2008, are available to confirm Emoto's experiments.

Regarding an experiment conducted by Takao, et al. (2006), which Emoto was one of the research members, the research result was released at a meeting of the Psychical Society of Japan on 8<sup>th</sup> August 2006. Four labels on which had 'Thank you' and 'You Fool' typed and printed in Japanese and English respectively, were taped on four 100ml bottles of distilled water with Sellotape. The two bottles on which had 'Thank you' labels in both languages slightly increased *Ca* rates, which was not contained originally in their water, in the first week and kept the increased rate the next week, while those had 'You Fool' on significantly

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<sup>90</sup> The Japanese translation is 波動.

increased the *Ca* rate by the first week past but it had disappeared completely in the following week. They reported that the same results were recorded by repeating the same experiments four times. The similar power of language has also been observed even at a distance as seen in two experiments conducted by Radin (2006 and 2008).

As for the non-semantic communication, there have been numerous studies testing the effectiveness of intercessory prayers on human beings.<sup>91</sup> While our, “[i]ntention can be expressed in both positive and negative ways” (Schwartz and Dossey, 2010: 302; see also Benson, et al. 2006), the effectiveness of intercessory prayer may depend upon the belief or willingness of those who *receive* such treatments (Palmer, Katerndahl, and Morgan-Kidd, 2004; Reid et al., 2017). The same may be seen to apply to mediation, which can only be effective with the willingness of its disputing users.

Sicher et al. (1998) who carried out an experiment to test the effect of distance healing on a group of HIV patients concluded that, “[t]he findings of decreased medical utilization, fewer and less severe new illnesses, and improved mood for the treated group compared with the controls supports a positive therapeutic effect of [distant healing], [and continued t]his outcome is difficult to explain, particularly in this double-blind study where subjects, physicians, and study personnel did not know who was in the treatment group” (Sicher, et al., 1998: 361).

To be convinced that such telepathic effects of mediators on their clients contribute towards resolution, the present thesis must look for future experiments that could measure the statistical probabilities of resolution through mediation using silence. Although the importance of thoughts is emphasised based on resources available on telepathy and distance healing, these sources only suggest the possibility of mediators communicating their thoughts to their clients. On the first page of the above-mentioned article by Sicher, et al. (1998: 361), an unusual foreword is inserted by the editor, who is also a medical doctor:

*“Does the paper prove that prayer works? No. The authors call for more research, as do we and the reviewers, for a number of reasons. We note that the study was relatively short and analysed rather few patients. No treatment-related mechanisms for the effects were posited. The statistical methods can be criticized. We have chosen to publish this provocative paper to stimulate other studies of distant healing and*

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<sup>91</sup> Such as Byrd (1988), Wirth and Cram (1994), Sicher et al. (1998), Harris et al. (1999), Cha, Wirth, and Lobo (2001), Seskevich, et al (2004), Jegindo et al. (2013), Rock, Permezel, and Storm (2012)

*other complementary practices and agents. It is time for more light, less dark, less heat". (Sicher, et al. 1998: 361)*

The same goes for those mediators who emphasise the influence of a mediator's being on their clients.<sup>92</sup> While telepathic communication cannot be conclusive in its occurrence and nor can non-semantic communication between mediators and their clients, this does not prevent the present thesis from highlighting the importance of this point, especially considering that this precept was based on the actual experiences of professional mediators. The findings of the experiments by Sicher et al (1998) support the presumption of non-semantic communication through telepathy or the strong intention of mediators.

This also explains why Gold (1993 and 2003) and Umbreit (1997 and 2001), who refer to spirituality in describing their mediation experience, emphasise the importance of being fully present during the sessions. By totally focusing on the mediation sessions, they further underline the importance of the non-semantic influence. Taking together with Sicher et al. (1998), the good intention of the mediator can be seen as a strong 'heartfelt' wish for their clients to find resolution. Hence, good intentions for settlements lead to consciousness shifts in their clients that then lead to settlements.

The non-semantic influence of a mediator on their client during a mediation sessions are the ideas primarily based on their views, values and beliefs and rooted in their mediation experiences; they cannot be seen as empirical results.<sup>93</sup> As seen in Gold (1993 and 2003) and Umbreit (1997 and 2001 and as highlighted by Ishihara, 2017b), their arguments have not changed over a lengthy period of time, despite not being tested empirically. This is because such claims are practice values that have developed based on what they have experienced as mediators with their clients. Their claims could be tried and tested scientifically; such research is possible as there are significant numbers of studies that have tested the effects of unvoiced intentions.

However, considering the research aim of the present thesis, it is debatable whether such scientific, empirical data is required to support what the mediators say about their

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<sup>92</sup> For instance, Bowling and Hoffman (2003), Chupp (1993), Gold (1993), Jones (2009), Nan (2011), Umbreit (2001).

<sup>93</sup> Apart from Jones (2009). However, as discussed in Chapter 2, her research lacks necessary details to be considered as an empirical study.

experience. Even though such study results have been offered together with their personal views, its main argument, the suitability of the currently applied translation for the terms spiritual or spirituality, remains the same. Instead, what those existing researches imply is that both English and Japanese researchers as scholars recognised the importance of conducting their researches. In other words, people speaking either or both languages have potential to understand this fourth precept as an important factor.<sup>94</sup>

In this section so far, the focus has been on the claims put forward by non-indigenous mediators. In indigenous mediation, which Umbreit (1997 and 2001) does not distinguish from spirituality of non-indigenous mediation in his arguments, spirituality includes accessing the spirits of the ancestors through the spiritual power of the elders and their role in undertaking mediation by using such a power (Shook and Kwan, 1987: 47; Walker, 1999, 2001 and 2001b). On the one hand, those who prefer phenomena to be analysed, quantified, distinguished, measured or enumerated will find even less answers when seeking to scientifically prove spirituality as expressed in mediation regardless of indigenous or non-indigenous mediation. On the other, the lack of empirical data cannot deny what people try to convey what they experience in a mediation session. As Cloke (2005) rightly points out, spirituality loses certain qualities when to quantify people's spiritual experiences. As seen in the next discussion, the fifth precept also is simply a metaphorical description of how mediators have felt during past mediation sessions.

As Ishikawa (2010) argues, using the term spirituality to explain the phenomenon which the experiencers experienced can be due to their passion to convey the experience. In understanding what Lois Gold and Mark S. Umbreit try to say by the terms spiritual or spirituality, it is important not to restrict the understandings to scientific evidence. Instead, their voices should be taken as an experienced mediator's opinion and advice which leave much freedom to its audience how he or she then deals with the information shared in their published articles.

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<sup>94</sup> Although Chapter 6 will further discuss in detail, some parts from a book of Emoto (2001/1999), *The Message from Water*, was used as a material for moral education textbooks for the compulsory school education in Japan.

### 3.4.5 Spirituality leads disputants to settlements at a higher level through connection with others

This precept, similar to the previous one, should be seen as a rather metaphorical expression of what mediators as authors have felt during their mediation sessions since material shifts during the sessions cannot occur. The connection referred to does not assume any tangible connection between the attending parties such as holding hands. Taking conflict as a state of disconnectedness due to the differences among the disputing parties and spirituality as an implication of a connected state based on unity, Zumeta (1993: 26) states that:

*[w]hen mediation encompasses both the unity and diversity, it is almost holy. It is after all, the best that we on earth can hope for: to respect and appreciate our differences and our similarities and the connectedness between us. That is why the moment of deep agreement is so profound.*

By describing her mediation experiences as spiritual, Zumeta (1993) emphasises how mediators themselves need to feel connected, in other words to be united, or in harmonious relationship, with other people around them if they are to provide spirituality in their mediation sessions (see also, Saposnek, 1993). In their view, spirituality does not simply occur instantly during a mediation session by paying attention to changes in the consciousness of the participating clients. Instead, the mediators themselves must be role models for their clients to show how to be in such harmonious relationships with the people around them. The mediator's relationship of peace and harmony for justice for their clients is, "all presumably to achieve a higher purpose and a better relationship for the parties" (Menkel-Meadow, 2001: 1081).

One mediator described the state of being in dispute as "[i]n conflicts, we may not only be "in over Our Heads" but also emotionally exhausted, spiritually shuttered, and physically frozen" (Nun, 2011: 247 emphasis in the original). By connecting the other parties attending mediation, the disputants become spiritually open. The sense of interconnectedness between people allows the disputants to relate to the world as well as to the transcendent (Nun, 2011: 55).

Through a higher consciousness (Gold, 1993: 55), some mediators connect to others including the transcendent. The highest consciousness of the mediator influences the clients in mediation and allows the discussions to shift in a more positive, productive direction (Gold, 2003: 200). This conflict transformation only occurs when there is an internal shift in one's

perceptions and when, “the creative spiritual energy within each person comes to life” (Chupp, 1993: 6; also, Cloke, 2005). This internal shift and transformation occurring inside clients, however, can be felt (Umbreit, 2005). With the sense of connectedness in place (Umbreit, 2005: 4), spirituality requires a mediator to work with the clients’ storytelling process by being fully present yet not controlling or being judgemental about those stories, and to work with both their own and the clients’ energy of conflict which is, “the powerful non-verbal language of their bodies and spirit” (Umbreit, 2005: 1). The use of such non-verbal language can communicate authenticity, adjust thought differences between mediation participants and the mediator, which includes the higher values they adhere to, convey each other’s intentions, and create openness and a non-judgemental atmosphere (Umbreit, 2005: 4).

Along with this shift in perspective, participants can become more sensitive to others and develop a new way of communication (Jones, 2009: 151, 159-160). In Jones’s study (2009: 160), participant mediators described the ‘shift’ as:

*Something shifts, all of a sudden they see beyond their own little piece of the universe, they begin to understand the connections...they get very comfortable, you can almost hear the sigh. [...] You can feel the shift in their energy.... If you don’t get the shift and you move to ways to solve it, that is when things totally break down. They start coming up with methods that are not about resolution.*

Based on the voices of her research participants, Jones (2009) discusses how mediators must work on and improve themselves so that to improve their mediation practice quality because, “the *art* of their [mediation] practice is more a matter of *being* than doing” (Jones, 2009: 150-151).

This precept is also referred to by Mayer and Boness (2011), academics who were based respectively in the department of organisation at Rhode University, South Africa, and the department of intercultural practice and conflict management at the University of Göttingen, Germany but conducted their study in Tanzania. The purpose of their research was “to provide insights into cross-cultural conflicts and their management in ecclesiastical organizations in Tanzania” (Mayer and Bones, 2011: 175). Their study found that mediators offering faith-based mediation considered that they were working between the disputants as well as between the disputant and God (Mayer and Boness, 2011: 179), thus allowing the disputing parties to link their issues to “a higher spiritual level and a higher consciousness”

by using Christian symbols instead of using a structured, rational mediation process (Mayer and Boness, 2011: 184 and 185). In order to conduct mediation in this manner, faith-based mediators in this study used a “special connection to God and with their spirituality” (Mayer and Boness, 2011: 185). The conclusion stresses that mediation as a Christian spiritual process creates harmony, peace and spiritual fulfilment by using religious symbols, concepts, metaphors and analogies which are based on their Bible (Mayer and Boness, 2011: 185).

The core practice of mediation is described as “a process of shifting consciousness” because, “parties develop increasing awareness of their own needs, the needs of others, and ways of meeting everyone’s needs” (Nan, 2011: 242). When disputants open to an external world and seek solutions through negotiation which is facilitated by their mediator, their attitudes will lead to a settlement because they already have begun making such a shift by attending the mediation session in the first place. Goldberg and Blancke (2012: 463) add that those, “practitioners believe that the core of their effectiveness is their spirit, and that is what allows them to create space for extraordinary shifts”. Here, the deep relationship between the mediator’s mind, intention, or thought and different ‘levels’ and ‘shifts’, that resolve the issue at stake, is also explicitly highlighted. By writing this article, they try to convey to their readers that mediation can be “profound, integrated work [...]that deeply engages the spirituality [...]in such a way, that, if anything, is more profoundly respectful of party self-determination than classical mediation” (Goldberg and Blancke, 2012: 464-465).

These authors appear to suggest that mediators who are not spiritually intelligent or who cannot engage deeply with their clients, may violate or damage their clients’ self-determination, whether either intentionally or not, by imposing their values onto their clients’ situations. By contrast, what spiritually intelligent mediators do, regardless of their faith, is to provide a space for their clients to change the ways of thinking or perceptions that caused the dispute (Hoffman and Wolman, 2013). In such a space, having a higher spiritual intelligence allows mediators to know when to reinforce their personal values and when not to, so that to maximise their clients’ self-determination. As has been outlined in previous chapters, mediation is about the clients themselves settling their issues with the attendance of a mediator of their choice; it is not about mediators making a settlement happen. Goldberg and Blancke (2012) use the term spiritual to inform about and encourage fellow mediators to use spiritual intelligence in their sessions to achieve a settlement.

Despite the metaphorical expressions used, this precept has been shared by mediators who work in different countries. It may be that this is as a result of reading one another's articles, but the significant point is that numbers of mediators have expressed their professional experience by using similar, if not the same, expressions in their publications. As mentioned in the first precept above, however, this precept is only partially similar to the spirituality referred to indigenous mediation, where references to a shift to a higher level are not made.<sup>95</sup> In other words, it is only non-indigenous mediators who refer to the notion of height when discussing spirituality in the mediation context, although this does not mean that those who offer indigenous mediation do not understand the metaphor.

As discussed with regards to the first precept, what bridges the differences between indigenous and non-indigenous mediation is a willingness to try to understand each other (Huber, 1993) and a degree of integration has already taken place (Barnes, 1994; Wolf, 2017). Even though this precept was generated by Gold (1993 and 2003) and Umbreit (1997 and 2001) to share with the readers, they do not claim that this is something universal for all dispute resolutions. What should be stressed is that Umbreit (1997 and 2001) clearly states that the spiritual dimension in the mediation session should not be initiated by the mediator. By focusing on the similarities between different notions of spirituality in the mediation sessions, Umbreit (1997 and 2001) acknowledges the differences exhibited among his various clients.

#### **3.4.6 Such influences tend to occur in a safe or sacred space created by the mediator**

Quite naturally, this sixth precept summarises the untested claims of mediators that were described by the third, fourth and fifth precepts, in a tangible manner: positive influences that lead to a settlement occur in a safe or sacred space which is created by the mediator.

In mediation sessions where disputing clients discuss their issues with their mediator, there is an inevitable power imbalance. Roberts and Palmer (2005) suggest that the ultimate question for the mediator is to what extent this imbalance can or should be rectified. This

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<sup>95</sup> Although this point beyond the scope of the present thesis, this difference between spiritualities referred to indigenous and non-indigenous mediation may have something to do with religious influences. For example, according to Kuramochi (2016), a professor at the Department of Cultural Anthropologist of Waseda University in Japan who analysed the art drawings of Heavens and Hells in various religions, many religious drawings and artworks place Heaven somewhere up and Hell somewhere down in their compositions regardless of religion, geographic location or historical time period. However, to make any conclusive claims, a series of field studies is required.



question, however, is posed only when such imbalances can or should be redressed (see for instance, Chornenki, 1997). The mediator has to judge the degree to which their mediation in a specific context crosses lines of stratification or involves gross power imbalances (Roberts and Palmer, 2005: 132). As Robert (1992) points out, mediation can be ceased where necessary.

Roberts (1992: 7) argues that mediation, unlike psychotherapy, is grounded in “liberal, humanist values that justify its use both for” the clients and the mediator (also see Haynes, 1992, for further arguments). In this context, the decision-making as well as the authority over the decision-making process need to be with the clients as independent, competent adults. Mediators must respect the self-autonomy of their clients which allows them to act as reasonable adults based on their competence and capacity (Roberts, 1992). In such circumstances, the disputants should not feel unsafe. As a general rule, safeguarding all parties’ interests, including the mediator’s, needs to be considered in each mediation session. The idea that spirituality involves the creation of a safe, if not sacred, space to allow the positive influences in the session to bring about a settlement, requires careful analysis.

According to Chupp (1993), conflict transformation only occurs when there is an internal shift in one’s perceptions, which is inside of the clients.<sup>96</sup> This shift can occur in “a safe place to work at differences”, and, once occurring in one party, this shift influences the other party (Chupp, 1993: 7). For mediators to provide a ‘safe’ space, they themselves must open up to and feel comfortable with their pain, inner struggles, values and learnings. This transformation requires the mediator’s inner centeredness (Chupp, 1993; also, Gold, 1993; Umbreit, 2001) and this inner centeredness then influences how the mediator creates a safe space for the clients:

*I seek that trusting place with God where I can become vulnerable and share my deepened and darkest side. When God listens, I am re-created. The foundation within me flows and I offer back to God the best of who I am. Restoration comes as God responds with acceptance: “I know who you are and I love you.” In that acceptance I am transformed and enter a new, more trusting relationship with the Creator. (Chupp, 1993:11)*

For Chupp (1993:11), this “relationship with God is no longer based on fear of punishment” because he knows that he would be accepted and understood by his mediator in revealing

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<sup>96</sup> This was already discussed earlier in this section and Chupp (1993) declared this occurred when, “the creative spiritual energy within each person comes to life” (Chupp, 1993: 6).

himself if he were the client, just as he accepts and understands his clients. Chupp seems to draw a parallel between his occupational relationship and experiences with his mediation clients to the relationship between himself and God. What is safe about mediation held by Chupp is expressed in his own words. These transformations that occur in disputing clients as well as in mediators are the key to changing the conflict structure, which Chupp calls 'shifts'. What distinguishes his mediation from faith-based mediation, or more specifically pastoral mediation, is, however, the fact that he does not align his practice to Christianity despite explicit references to Christ, God and the Creator (Chupp, 1993).

Although religious influences may be detected in Chupp's expressions regarding spirituality in the context of mediation, the denial of the religious impulse in their mediation practice only widens the gap between mediation expressed by the terms spiritual or spirituality and faith-based mediation. In his 2012 publication, Umbreit describes how the so-called shifts occur in a safe, if not sacred, place. For Umbreit (2012: 1 and 4), mediators need to know how to walk their own path of life and know the "still point of power within us" through some form of spiritual practice, that can include meditation, prayer, yoga, Tai Chi and so on. In a similar vein to Chupp (1993), Umbreit goes on to describe power as something that, "recognizes that it is in the energy of our communication, particularly through the non-verbal language of our spirit, that we can offer a sacred space for bearing witness to the healing power of story" (Umbreit, 2012: 4). His notion of power can also be seen in indigenous mediation as the spiritual power that is often conferred on the elderly members of the community who take on a mediator's role (Shook and Kwan, 1987: 47; Walker, 1999, 2001 and 2001b).

Jones (2009: 151 and 152) also supports the importance of safe, nonlinear mediation sessions. Mediation in which the mediator creates a holistic, nonlinear and safe space allows the clients to open up and experience the shifts as a result. The safe mediation space can be created and held by mediators who engages in practices to reflect own positive energy onto the mediation practice.

Those voices that emphasise the importance of making an already safe mediation session even safer are explicitly highlighted by the question posed in the third precept: the issue is with the being of the mediator rather than with the doing of the mediation. As mentioned

at the beginning of this precept, references to creating safe spaces in the context of mediation are not necessarily made in association with notions of spirituality. What differentiates those who speak of the necessity of the safe space in mediation in relation to spirituality and others who do not depends on the meaning given to the sacred and whether it is seen as a common human need. For example, Clark (1993: 47) describes common human needs as including social bonding and sacred meaning which are to be satisfied only in a social context and emphasises the importance to consider both needs when mediating disputes.

When referred to in the context of mediation, the terms spiritual or spirituality are proposed by its advocates to fulfil the basic principle or needs sought in mediation, yet accentuating the sacred as a need to be fulfilled more than other common human needs increases the already broad nature of mediation practice which was identified as lacking consensus of what spirituality is (Hoffman, 2006). However, even though there is no consensus over the meaning of the term spirituality or spiritual in the context of mediation, the discussion thus far made in this section gradually poses a question whether such consensus is any use in the status quo of mediation context. These terms seem to aid mediators to express an important component, yet at the same time need not to be used explicitly in order for the mediator to make a whole of his or her own argument. This analysis is further expanded in the next precept.

### **3.4.7 A sense of sacredness in the mediation session is not necessarily an indication that any specific religious doctrine or faith is being applied**

As this is the seventh precept and religion, faith and spirituality have already been articulated at length thus far, this precept is only discussed briefly. Some mediators feel that there is an element of sacredness or something holy in their mediation sessions and express such feelings by using the terms spiritual and spirituality. However, such a reference is not necessarily an indication of their religious belief or faiths applied in their mediation practice (Zumeta, 1993).

Mediators described the experience as hard to explain, yet stated that something ‘sacred’ and ‘holy’ occurred at the time of solving disputes; in fact, one mediator described it as bringing “God into the room” (Jones, 2009: 156). While their descriptions did not make

reference to religious influences, others did openly acknowledge its influence where it was considered explicit, vital and significant for their practice (Mayer and Boness, 2011). The notion of sacredness is referred to in indigenous mediation where no explicit influence of religion is acknowledged (Walker, 2001b). As discussed in the second precept, mediators who use those terms to describe their views on mediation are, at a time, different from or the same as faith-based mediators.

The realisation of sacredness reflects these mediators' sacred meaning which is their non-discriminatory attitude towards any individual spiritual beliefs (Menkel-Meadow, 2001) that bring the clients' consciousness to somewhere higher (Gold, 1997 and 2002; Jones and Georgakopoulos, 2009: 14; Umbreit, 2012), including but not limited to religious faiths including gods, divines, deity, goddess and "whatsoever name" in world's religions (Smith, 2010; see also Gold, 2003: 202). For a matter of convenience, the present thesis tentatively categorises all of these as 'Something Great'. Good intentions for settlements bring about a consciousness shift to a higher level, where mediators feel something sacred and holy. This then offers an explanation about why 'god' should be spelled with two 'o's in conflict resolution practice acknowledging spirituality (Menkel-Meadow, 2001: 1087). The successful induction of their clients' sense of Something Great in their mediation sessions was described as causing this shift to a higher level where Something Great and harmony exist.

To avoid misunderstanding, the sense of harmony is not limited to mediation which is described with reference to the terms spiritual or spirituality (Roberts and Palmer, 2005; Roberts, 1992). The difference is the sense of holiness or sacredness that mediators describe feeling at the time of the settlement, as a result of the described 'shift' occurring. This is what distinguishes their practice from other mediation, including the transformative model, although any mediators can 'nudge' their clients towards a settlement of the dispute (Roberts and Palmer, 2005: 67 and 157). However, due to the heavy references to transformation by those mediators who use spiritual or spirituality to describe what takes place in the mediation sessions, the next chapter will discuss in more detail the differences between their mediation practice and the transformative model (Bush and Folger, 1994).

In order to illustrate mediation described by mediators who refer to the spiritual or spirituality, the two axes that are used in peacebuilding and religious studies, are helpful. As discussed in Chapter 2, these two axes do not explain the same phenomena. In this discussion, of course, only the illustration has been assimilated but not the meanings. To 'nudge' clients to settlements in the mediation described by those terms, the relationship between the mediator and their disputing clients is on a horizontal axis and the relationship with Something Great is on a vertical one. The higher levels of the vertical line are expressed as the disputing clients settling the issue at stake; the mediator can feel the upward shift in their clients and feel a degree of connectedness with their clients who have made this shift to a higher level. Unlike in faith-based mediation, their sense of Something Great does not need to be suggested and recognised by the clients at all or to rest upon the same single faith or belief in the same mediation session.

Thus, each participant can bring their sense of Something Great within themselves, including the mediator, to the mediation session; the mediator's role is to help the client to recognise the difference between what they consider closer to their Something Great, if any, and the state of conflict in which they are in. However, it is entirely up to their clients to make any decisions in relation to their conflicting situation including a settlement of the dispute. This freedom to bring whatever they associate with Something Great, gives the clients a greater sense of self-determination in settling issues with their opponents with diverse backgrounds. In such a mediation session where a sense of sacredness together with safety exist, it is within the clients themselves to redress the power imbalances discussed in the previous subsection.

In a state of sacred consciousness which people can reach by using activities such as poetry, prayer and meditation, "our souls are open and we are sensitive to spiritual things. Sacred consciousness allows us to feel, experience, and know things we cannot access in the secular mode of consciousness" (Elkins, 1998: 88 by citing Tart, 1972; 1975; James, 1902: 388). The activities which Elkins (1998) describes using to reach sacred consciousness are matched to what those mediators recommend should be used to maintain their internal relationship with their true selves and also to sense their own Something Great (Bowling and Hoffman, 2003; Gold, 1993: 2003; Cloke, 2005; Umbreit, 2005). When the mediator approaches the spiritual dimension of mediation by using symbols, there are no cultural or faith barriers

because the communication becomes non-verbal (Fisher, 2000). Whereas Walker (1999, 2001 and 2007) maintains a distinction between the non-indigenous and indigenous peoples' spiritualities, the analysis so far reveals that there are many commonalities among *human beings* when considering spirituality in the context of mediation.

However, in order to feel or experience spirituality in this context, all people involved need to communicate with one another by using a common language. This commonality in their spoken language may hinder the commonality of spirituality in the context where each party does not speak the common language fluently or understand it at all. Fisher's (2000) experience with using symbols in mediation highlights how such tools can overcome communication barriers but also the fact that a settlement happens as a result of reaching the spiritual dimension, which is expressed as one's soul.

In a realisation of the importance of constantly accessing what they cannot normally know in the secular mode of human consciousness through those activities, non-verbal communication or communication through symbols allow Fisher (2000) to identify the clients' souls (see also, Wolf, 2017). Mediators need to maintain sacred consciousness through self-reflective activities such as moment of silences, prayer, yoga, Tai-chi or meditation in their daily lives because the mediator needs to be able to feel and recognise shifts in their clients' consciousness during the mediation sessions (Gold, 2003; Hoffman and Wolman, 2013; Jones, 2009; Roche, 2013; Umbreit, 1997; 2012).

The illustration of how the secular state of our consciousness can shift to a sacred state, describing the process is as follows: "under certain circumstances our consciousness shifts along a continuum to a point at which it becomes receptive to the "inflow" of supernatural energies [...t]he mind curists effectively demonstrated that mystical states of consciousness enable us to become continuous with higher metaphysical worlds" (Fuller, 2001: 56-57 citing James, 1902). In mediation sessions, those who are going through such tragic experiences are clients, not the mediators. This description by Fuller (2001) of how consciousness shifts to a sacred state provides supports for what other mediators have stated as happening with their clients in the mediation sessions (see also, Gold, 2003). However, there is no account from their clients to support the same. In this sense, the present thesis argues that the experiences of those mediators whose practice is spiritual and who are attuned to the sacred

during their mediation sessions should not be equated with mystical experiences. This discussion, that the states of sacred consciousness in mystical senses are unlikely happening during any mediation sessions, takes place in the following chapter.

Although Jones (2009) reported that her research observers had been able to judge when such spiritual moments began during the mediation, the significance of the notion of using spirituality in the context of mediation would not question whether it is possible to study empirically or prove that the spiritual dimension increases the probability of successful outcomes. As in the discussion about the transformative model, the desired outcomes of mediation, which mostly means settling the dispute, are secondary to any models and approaches to mediation (Umbreit, 2001). What matters to mediators is the expected effectiveness of the models applied in leading clients to the desired outcomes. The precepts discussed thus far raise the question whether mediators who refer to spirituality in the context of mediation and describe their mediation experiences by using these terms, can be said to share a model of mediation. Yet according to their own discussions, no mediation model has been formed to categorise these mediators. This is further discussed in the next subsection.

### **3.4.8 When the terms spiritual or spirituality are used by mediators, they do not form a particular mediation model**

What has become apparent so far in the discussion of this section is that when mediators refer to the terms spiritual or spirituality, this is an indication and a description of one component in their practice. This is why, as each article shows, even when using the same terms, mediators can and will be conveying something different. Nonetheless, given that they share those terms as a commonality, this discussion considers whether the practices described by these mediators can be categorised into one mediation model.

As shown in 3.3 above, Lois Gold and Mark S. Umbreit do not share the same practice model, even though Umbreit (1997 and 2001) has highly praised Gold's (1993) healing paradigm. Furthermore, as shown in his video lecture which was translated in Japanese by Ishihara (2017b), the terms spiritual or spirituality are not required to explain what he calls the humanistic model (Umbreit, 1997 and 2001; Lewis and Umbreit, 2015) or humanistic approach to mediation (Ishihara, 2017b). Similarly, Gold (2003) only uses these terms to describe the four components of her healing paradigm, not the paradigm itself. Her focus is

primarily and predominantly on leading her clients to settlements in the mediation sessions through healing.

Other authors who use those terms do not share a practice model or practice principles. To name a few, in indigenous mediation, which has been described in terms of spirituality, the communities mentioned are including, but not limited to, Aboriginal, Canadian First Nation, Native-American, Native-Hawaiian and Maui. Among those, at least two wheels of mediation models, which have been explicitly introduced by Huber (1993) and Barnes (1994), and ho'oponopono, which has been traditionally used in Native-Hawaiian communities (Goldberg and Blancke, 2012), are now known as an established mediation method. In the non-indigenous mediation context, these terms are used to explain mediation techniques (Cloke, 2005; Matthews-Giba, 2000; Saposnek, 1993), tools (Tauscher, 2003 and Nun, 2011) and approaches (Jones and Georgakopoulos, 2009; Jurevic, 2000; Nan, 2011; Roche, 2012; Umbreit, 1997 and 2012; and Wolf, 2017). These terms are also described as something which can be a part of any mediation models (Roche, 2017).

Despite the differences observed between indigenous and non-indigenous mediation, authors in both mediation contexts use spirituality to describe the nature of mediation as something beyond mediation techniques, methods or strategies which use rituals, symbols, or language (Chupp, 1993; Gold, 1993 and 2002; Jones, 2009; Umbreit, 2012). In the context of mediation where mediation theories are not extended to who mediator is, a shared sense of the importance or influence of the mediator's spirituality on the client does not mean a shared practice model. In other words, the terms spiritual or spirituality refer to a component that is embedded in being a mediator.

Aside from whether use of those terms equates with a shared model, each author does not repeat other authors' accounts to express their independent views and opinions in their publications. Even on the rare occasion where the authors use the same terms and share some commonalities, thereby enabling the generation of the precepts discussed in this chapter (Gold, 1993 and 2002; Umbreit, 1997 and 2001), these publications and the authors who use those terms, discuss a wide range of topics. The diversity in the overall arguments in which the terms of spiritual or spirituality appear, is problematic, especially with regards to the second precept; for some authors, spirituality included religion, for others it did not;



for some, they overlapped while others used the two terms interchangeably. As a result, when those terms are used in the context of mediation, the relationship between the two needs to be clarified.

In summary, when the terms spiritual or spirituality are used frequently in English language publications on mediation, authors use those terms to put forward very different arguments. Based on the way that these terms are used, it is not possible to identify a common spiritual model of mediation. Instead, in the context of mediation, the terms spiritual or spirituality describe just one component which is a part of a whole. This component is described in different ways, thereby influencing the specific meaning spirituality has as a component in each mediator's practice.

## **3.5 Remarks and issues arising in the findings of textual analyses**

Considering the term spirituality as a symbolic metaphor that expresses our world's capacity for transformation and metamorphosis, King (1996) argues that the meaning of the term spirituality changes depending on who uses the term and points out that its flexibility or ambiguity allows its users to both reflect on and challenge institutionalised thoughts such as religions. By analysing articles by mediators in the English language, the present thesis has explored the spiritual or spirituality as an embedded minor component in describing mediation practice. Based on the discussions thus far, the subsections that follow summarise the main points that emerge from the textual analysis.

### **3.5.1 Identified remarks**

#### **3.5.1.1 Spirituality as something to overcome the differences in disputes**

Not only Gold (1993 and 2003) and Umbreit (1997 and 2001) but also other mediators who use the terms spiritual or spirituality to describe mediation, seem to view that their inner self or consciousness contributes to the settling of disputes, by drawing out something sacred in their mediation clients during the sessions in which a safe space is created. Settlements of disputes occur when they feel a sense of connectedness, which some describe as something 'sacred' or 'holy' happening at the time. Although in indigenous mediation there is no reference to a shift in consciousness to a higher level and in non-

indigenous mediation, the ancestors are not called upon in solving disputes, nor the spiritual power is used by the elders who conduct mediation, the spiritualities of both indigenous and non-indigenous mediations have become much alike in their definitions. When using those words to describe mediation practice, however, there are also differences in the meanings of those words depending on the authors, who each use those through their perspectives that are based on their mediation and personal experiences.

One commonality among the writers who speak of mediation in relation to spirituality is that their views are based on their past experiences. Their professional input is based solely on their retrospective views and are not proactive. While their suggestions contribute to the development of mediation practices, their accounts do not guarantee that spirituality is effective in achieving settlements and should be taken only as a way of describing their mediation practice and mediation experiences albeit their professional inputs are significant since based on their actual mediation experiences. While all the other articles and commentaries referred to in this chapter contain the authors' or participating mediators' voices regarding their mediation experiences, Roche (2017) is the only author who does not include either experiences. However, Roche (2017) referred the other articles such as Cloke (2005), Jones (2009) and Nun (2011) which were written based on the authors' mediation experiences. Even in such academic arguments, spirituality is acknowledged to become a part of any mediation models.

The term spirituality as used by non-indigenous mediators seems to express mediators' motivation to settle their clients' issues by shifting the clients' perceptions or ways of thinking to a higher level. Such shifts in client perception happen, according to the mediators, via an inner connectedness between the conflicting parties and their mediator during the mediation sessions. The quality of the mediator's relationship with their inner self influences how the mediator forms interpersonal relationships with other people, including their clients. However, it is hard to ignore that such an observation on their clients described by the terms spiritual or spirituality was only from the mediators' point of views, and not of their clients who settled their disputes in such a mediation. This point is important to emphasise as will be discussed further in the following chapter.

Both Lois Gold and Mark S. Umbreit focus on the similarities rather than the differences between the indigenous and non-indigenous peoples. It is also noticeable that indigenous spirituality has been introduced to non-indigenous mediation and that mediators in non-indigenous mediation draw on the practices and belief systems of indigenous spirituality in their mediation practice. The access to non-indigenous mediation by indigenous peoples without restricting their cultures has already been discussed in Chapter 1. In such an intersected era of multiple spiritualities, the precepts that have been generated based on Gold (1993 and 2003) and Umbreit (1997 and 2001) highlight that focusing more on commonalities than on differences leads to settlements and that one component of such commonalities is expressed by using the term spirituality. When symbols helped to settle the issues in both non-indigenous and indigenous mediation (Fisher, 2000), such symbols allow to bridge the differences by focusing on the same, which is spirituality.

### **3.5.1.2 Spirituality as one component of the whole argument**

Spirituality is a component, not the whole of their arguments. Each author had their own purpose for publishing their articles. In order to share their past mediation experiences with others, they used the term rather symbolically to emphasise its importance in their practice. Where such symbolisation is not necessary, as it is not a significant component to the argument, similar claims are made but without using the term. Mark S. Umbreit himself does not always refer to spirituality when explaining his Humanistic Mediation Model (see for instance, Ishihara, 2017b).

Because there is a strong nexus between theology and the study of spirituality,<sup>97</sup> the following definition of spirituality proposed by Wolfeich (2012: 335) encapsulates what these mediators try to express by using the terms spiritual or spirituality in the context of mediation: “[s]pirituality is a life animated by the Spirit of God, practiced with love, holiness, and justice. It is a life both received through grace and built up over time through the cultivation of practices in a sustaining community”. Spirituality in both indigenous and non-indigenous mediation practice seem to share common traits with spirituality identified by de Souza (2016) making an extensive cross-reference to many disciplines but not including mediation.<sup>98</sup>

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<sup>97</sup> As discussed in Chapter 1.

<sup>98</sup>de Souza (2016: 346) identified the key traits of contemporary spirituality across multi-disciplines as, “connectedness of self to other people, to the natural world and environment, and to the universe”. She described this spirituality as a part of being human regardless of their religious or non-religious beliefs and not necessarily limited to preserved religiosity.

However, the present thesis proposes that such attempts to generalise spirituality across different disciplines merely scrape the surface in terms of how spirituality is actually applied in each academic discipline. For instance, mediators' ways of applying their spirituality may not work in Nursing where 'spiritual' care has been practised and developed since ancient times (Tanyi, 2002: 500).<sup>99</sup> In order to understand the meanings of spirituality as it is applied in one context, the analysis should focus on the particular context rather than attempting to cross-reference with sources from other academic disciplines.

The cross-references conducted by de Souza (2016) are, however, productive when there is an already established consensus existing with regards to the meanings of spirituality used in one context. This was what Horie's (2019) latest research did to generate the meaning of transliterated spirituality by cross-referencing both Japanese and English resources published in psychology and sociology of religions. By analysing Gold (1993 and 2003) and Umbreit (1997 and 2001) whose references of spirituality were translated into the Japanese language, this research has focused on the commonalities in the two authors' publications to generate the core precepts. Simultaneously, the differences in their arguments have also been highlighted. Reference to other publications which also use the terms spiritual or spirituality in the context of mediation has contributed to deeper and more comprehensive discussion. There were as many similarities as differences among those mediators' publications. When citing those terms spiritual or spirituality in the context of mediation in which such an already established consensus does not exist yet, the users of those terms need to describe what they mean by those terms.

When settlements occur, the mediators referred to in this chapter state that they feel a connectedness is created between themselves and their clients and a change or shift in their clients' perception or consciousness. Their publications appear to be professional dialogues, sharing such experiences so that their fellow mediators can expand the approach, technique

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<sup>99</sup> In the field of Nursing, 'spirituality' is defined as "a personal search for meaning and purpose in life, which may or may not be related to religion. It entails connection to self-chosen and or religious beliefs, values, and practices that give meaning to life, thereby inspiring and motivating individuals to achieve their optimal being. This connection brings faith, hope, peace, and empowerment. The results are joy, forgiveness of oneself and others, awareness and acceptance of hardship and mortality, a heightened sense of physical and emotional well-being, and the ability to transcend beyond the infirmities of existence" (Tanyi, 2002: 506). This lengthy definition is necessary in Nursing because of the caring relationship between health care practitioners, including nurses and their patients. Surprisingly, de Souza (2016) does not include Nursing or other Health Professions such as hospice or mental health institutions in her analysis. As a result, articles such as Egan et al. (2011) and Tanyi (2002) remain outside her "constructions of spirituality" (de Souza, 2016: vii) although her attempts are important and progressive.

and quality of mediation that they describe as having a spiritual dimension. Some incorporate spirituality into their mediation practice models (Barnes, 1994; Huber, 1993; Umbreit, 1997 and 2012) while others see it as a part of a mediator's professional quality (to name a few, Chupp, 1993; Gold, 1993 and 2003; Jones, 2009; Zumeta, 1993 and 2017). Spirituality in the context of mediation can therefore also be viewed as a part of cultural practice or embedded in religious faiths (Mayer and Boness, 2011; Matthews-Giba, 2000; Walker, 2001, 2001b and 2007) or as spiritual 'intelligence' (Goldberg and Blancke, 2012), in other words as part of the mediator's being.

Taking those points, spirituality is forming a component of each whole argument.

### **3.5.1.3 Spirituality does not combine mediation with psychotherapy**

With regards to respecting their clients' decision-making processes, mediation and psychotherapy have been described by Gold (1993 and 2003) and Umbreit (1997 and 2002) as different professions, even though both professions which speak in either English or Japanese, are now using the same terms spiritual and spirituality (for example, see Walsh, 2009; Ishikawa, 2010; Horie, 2019). The present thesis has discovered through its textual analysis that, in the context of mediation in which spirituality is referred to, mediator and client are in equal positions and do not receive each other's care. Clients retain their self-autonomy in making their own decisions and mediators respect their clients' decision-making processes, while recognising the importance of positively influencing them through their presence, which was expressed as 'being'.

To be more specific, Umbreit's (2001) humanistic mediation, which is grounded in the paradigm of healing, benefits clients emotionally but the process "is not psychotherapy, nor does it require a mediator to have training in psychotherapy. Acknowledgment of brokenness or hurt is intrinsic [...but w]orking on that brokenness and dealing with past emotional issues contributing to these feelings [... are] the domain of therapists, not mediators" (Umbreit, 2001: 7). Goldberg (2016) also explicitly differentiates mediation from psychology, without denying the influence of the latter on the former. Mediation clients do not require psychological treatment for their independent decision-making processes (Umbreit, 2001). The issues discussed in mediation "are not regarded as symptoms of psychopathology, nor are the parties regarded as suffering from incapacities that render therapeutic intervention necessary" (Roberts, 2014: 25). Mediators do not undertake or

assume a leadership role in mediation sessions either, because, “the supremacy of the parties’ meanings and decision-making authority” are not and should not be invaded by the mediator undertaking the session (Roberts, 2014: 25 to 26).

Psychotherapists can deal with people who are emotionally and psychologically unstable as individuals by having lost control over themselves due to various factors which include conflict with other people. In therapy, the therapist will expect to not only be involved with their client’s worldview, but also support and guide them to stand alone in their own worldview to enable them to face their external world, by taking a leadership role in the sessions (Roberts, 2014: 26). On some occasions, therapists may need to lead their clients to a new worldview by defining what their issues are during the session (Roberts, 2014: 25). In West’s view (2004: 55), such a task is necessary to hold “much good” psychotherapists’ work “in an altered state of consciousness for both client and therapist”.

By contrast, mediators give disputing clients a ‘nudge’ to make the transition to the different level of worldview which the clients have not yet reached (Roberts and Palmer, 2005: 67). Although some influences from psychotherapy toward spirituality referred to in the context of mediation have become apparent in the analysis presented in this thesis (for example, Gold, 1993 and 2003; Goldberg, 2016; Umbreit, 2001), this should be described as only an intersection between those two professions and not an overlap. The mediation profession is somewhere in, “a space bounded by the path of law, psychology, and the various wisdom traditions” (Hoffman, 2006: 472).

Based on above arguments, mediation analysed in the present thesis is different from psychotherapy. This point is important to argue the suitability of transliterated spirituality in the Japanese-speaking mediation context.<sup>100</sup>

#### **3.5.1.4 Spirituality used in mediation is not commodified**

Lastly, the applications of spirituality in the context of mediation do not form any particular model of mediation practice or categorise mediators who draw on spirituality in their practice into one group. The use of spirituality described in the context of mediation does not imply any commercialisation or commodification to offer mediation service. This can be

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<sup>100</sup> As discussed in Chapter 1 and 2, the same term has been widely used to describe therapists’ practice in Japan.

seen as due to the inherently context bound nature of spirituality. As evident in the second and third precepts, there is no shared description or professional consensus as to what exactly the spirituality of mediation is and how it influences on who or how to mediate. This is a clear indication of the nature of spirituality concerning the context. It does not form the whole of any argument regarding mediation practice.

A mediator's spirituality does not suggest building a connection intentionally between the mediator and the client to achieve a settlement. Hence, references to the terms spiritual or spirituality do not form a practice model or a category of mediators. Views range from those who consider this component as a part of the mediator or human being, to those who incorporate it into their mediation practice as a part of a mediation model (for example, Umbreit, 1997; Roche, 2017), motivation to practice (Nun, 2011), nature of mediation (Jones, 2009), paradigm (Gold, 1993 and 2003), technique (Cloke, 2005), tool (Fisher, 2000) and so on. Because it is a noncommodified component or aspect, there is a degree of flexibility in how each mediator acknowledges, recognises or applies the terms spiritual and spirituality in their argument.

Umbreit (2001: 6) rightly argues, whether the clients settle their issues is secondary to the process, not just in mediation that refers to spirituality but in any mediation model. The term is used to describe what happens in the mediation session although viewed as playing an important part in achieving a settlement. While Umbreit (1997 and 2001) admitted Carl Rogers's client centred therapy established in Humanistic Psychology offers significant connotations to Humanistic Mediation Model, he does not acknowledge other Humanistic psychologists such as Gordon Allport, Abraham Maslow, or Analytical psychologists including Carl J. Jung whose spirituality were discussed as a part of an argument on how privatised religion being commodified by psychologising spirituality in Carrette and King (2005). The main difference is now identified by this research as that spirituality used by Lois Gold and Mark S. Umbreit only forms a part of their main arguments which were described as paradigm or model of mediation, while the privatised religion expressed by psychologising spirituality became a commodity (Carrette and King, 2005). Again, to emphasise, Umbreit (1997 and 2001) clearly denied his mediation model to be confused with Psychotherapy.

Nonetheless, analysis of mediators' written debates concerning spirituality has made it possible to generate some core precepts of the terms used by the two authors, Lois Gold and Mark S. Umbreit, whose references to spirituality share more commonalities than differences. The purpose of generating the eight precepts was in order to consider the suitability of the currently applied Japanese translations in the subsequent chapter. However, the discussion in this chapter has clarified that such precepts do not represent a shared description of mediation service or mediator's practice model but only reflect what Gold (1993 and 2003) and Umbreit (1997 and 2002) expressed based on their mediation experiences.

### **3.5.2 Discovered issues**

Based on what has been discovered through textual analyses, there seem to be two points which require further clarification before discussing the precepts in the context of Japanese-speaking mediation.

#### **3.5.2.1 How exactly is this different from the transformative mediation?**

The first issue is the difference between what Gold (1993 and 2003) and Umbreit (1997 and 2001) describe when using the terms spiritual and spirituality and Bush and Folger's (1994) transformative mediation model. Careful attention must be paid especially to Umbreit's (1997 and 2001) accounts of introducing this model as a foundation of his humanistic mediation model as well as a humanistic approach in Japanese language (Fujioka, 2007; Ishihara, 2017b).<sup>101</sup>

The transformative mediation model is widely recognised and used in the Japanese context (Wada, Ando, and Tanaka, 2015; Wada and Nakanishi, 2016; Wada and Otsuka, 2014; Science Council of Japan, 2008; Yoshida, 2009). Meanwhile, Umbreit's (1997) humanistic model, which was influenced by and in developed parallel to the transformative model (Lewis and Umbreit, 2015), also described as a humanistic approach (Ishihara, 2017b), was introduced to Japan by using transliterated spirituality. If those two different models share the recognition of a transformative aspect, an important element in mediation, the introduction itself seems to be unnecessary and confusing. Where mediators describe their mediation using the framework of transformative mediation, the introduction of transliterated spirituality in the Japanese mediation context is likely to confuse and mislead

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<sup>101</sup> Please also see Lewis and Umbreit (2015) for their arguments on the differences between these two models.



Japanese speaking mediators as well as their clients because transformative model does not apply the terms spiritual or spirituality in its description yet recognises the importance of transformation during a mediation session to settle the dispute.

Nonetheless, identifying the models that are being applied helps prospective mediation users to choose a suitable mediator, although specifying the applied mediation model does not necessarily guarantee that the mediator will adhere to that specific model.<sup>102</sup> Spirituality as a phenomenon in the mediation context can be described without relying on any models of mediation and indeed, some mediators describe similar experiences without using the terms spiritual or spirituality. They prefer not to describe their practice by the terms even when they recognise as such in their practice (Jones, 2009).

Again, a reasonable approach to avoid the confusion would be to inform prospective users about the nature of their own mediation practice. Mediators who consider their mediation practice as spiritual are thus expected to apply the terms as a part of the description (Jurevic, 2000). For example, although in the indigenous mediation such as used by Australian Aboriginal, the First Nation in Canada, Native American, and Native Hawaiian, their spiritualities are expressed as a part of their mediation processes. The users of each mediation regardless used in the indigenous or non-indigenous context will be made aware of the specific approach in which such spirituality is applied.

The same applies to Japanese speaking mediators because of the term's context-bound nature and thus, the ambiguous meanings of the Japanese equivalences used by the translators of Gold and Umbreit's work. Because the transformative model has already been used in the Japanese-speaking mediation context, should the mediator wish to share the notion of using spirituality in the Japanese mediation context, they need to be able to explain the differences in the shifts described by the term spiritual and spirituality and in the transformative model. Once shared with the clients, such mediation referring to these terms will then become a faith-based mediation. Even then, the differences between the transformation described in the faith-based mediation and the transformative model need

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<sup>102</sup> For example, Honeyman, Goh and Kelly (2004: 491) reported an instance in Minnesota, USA, in which mediators who had originally been trained by the same organisation in the use of the 'elicitive' model, gradually shifted their practice to the 'evaluative' model as discussing monetary terms. Whether such a transition was consciously made by the trained mediators or whether their practice preferences changed over time rather unintentionally, is said to be unknown (Honeyman, Goh and Kelly, 2004).

to be clarified because faith-based mediation can apply transformative model if necessary. In addition, as Umbreit (2001) claims, issues regarding spirituality need not to be initiated by a mediator. If this is the case, the notion published as a part of Umbreit's mediation book by using transliteration and *seishin* remains unexplained. The reader can mistake what Umbreit claims by the terms spiritual or spirituality for a variant of transformative model.

The differences between what mediators describe with those terms and the transformative model require further analysis by cross-referencing their precepts of their mediation to the transformative model.<sup>103</sup> Without distinguishing those two, prospective Japanese-speaking users cannot make an informed choice about whether they want to integrate spirituality into their mediation, and if so, how (Goldberg and Blancke, 2011: 386; Goldberg and Blancke, 2012: 464). Conversely, Japanese mediators remain uncertain of the meanings of the notion of spirituality as introduced by way of translation in their own profession and cannot judge whether their practice can be described in those terms. Such confusion interferes with client self-determination in mediation (Goldberg and Blancke, 2012: 464), and undermines the trust that is a vital element in creating safe spaces in mediation (Poitras, 2009).

Therefore, the next chapter discusses the similarities and differences between mediation described by the terms spiritual and spirituality by Gold (1993 and 2003) and Umbreit (1997 and 2001) and the transformative model.

### **3.5.2.2 Is this an indication of mysticism in the mediation context?**

The second is the relationship between the spirituality identified in the context of mediation and mysticism.<sup>104</sup> Mediators whose publications have been analysed in this chapter do not use terms such as 'mystical', 'mysticism', or 'mystic' to describe their mediation practice. Nun (2011) explicitly distinguishes between the two. However, Gold (1993: 64; 2003: 204 emphasis added) describes the client's state as "*almost trancelike*" and due to this receptivity, a suggestive relationship exists between the mediator and clients. This is her illustration of her clients in the mediation session in which uses language associated with the spiritual, what Umbreit (2001) describes as the language of soul. In this regard, Umbreit (2001) strongly emphasises the importance of non-verbal communication.

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<sup>103</sup> Cf. Jurevic (2000) and Walker (2001).

<sup>104</sup> Please refer Waaijman (2002: 355-357 and 674-687) for the detailed discussions regarding mysticism.

So, although mystical experiences may be distinct from what is referred to as spiritual in the context of mediation,<sup>105</sup> there are seemingly certain links or resemblances that can be seen in the language of mediators in their publications. Mysticism, which portrays itself against the background of spiritual exercises (Waaijman, 2002: 675), is a relational process between God and human being and, if spirituality is viewed as mysticism, the notion conflicts with rationality (Waaijman, 2002: 357). If any of the mediators discussed in this chapter were to experience or exhibit mystic phenomena during a mediation session at all, it would not be hard to imagine how their clients might have responded. If the mediators only use the terms spiritual and spirituality in a more contemporary sense, an overlap between spirituality and mysticism should not be identified. It is therefore important to clarify the distinction between the two.

### 3.6 Conclusion

The textual analysis presented in this chapter shows that mediators describe the effectiveness of settling disputes by using the term spirituality as a part of their whole arguments. What the mediators try to express by these terms largely something to do with their past experiences. In order to discuss this with their prospective clients, both mediators and their clients need to understand what those terms mean in the context of mediation. However, the analysis shows that, because spirituality is only a component of their mediation experiences or practices as expressed in the English language, it is embedded in the language of mediation to describe their professional arguments instead of bearing a shared meaning (Hense, 2011). This discovery indicates that its meaning is very individual and hard to consolidate as one definite definition applicable to the profession.

By generating core precepts based on the publications by Lois Gold (1993 and 2003) and Mark S. Umbreit (1997 and 2001), the analysis discovered commonalities as well as differences across the meanings of the terms spiritual or spirituality which can be supported by other authors in the context of mediation. This research's findings in the context of mediation also appear in line with the view put forward by la Cour, Ausker, and Hvidt (2012). In the context of mediation, because the meaning of spirituality is user-dependent, it thus may contain, support or deny institutionalised religions (King, 1996). While generating a

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<sup>105</sup> This point by Jesper (2011) was raised in Chapter 1.

commonality of the term spiritual or spirituality across different disciplines is possible (see, for instance, de Souza, 2016), more disciplines are involved in such attempts, the shallower the common meaning of the term 'spirituality' may become. This point has been shared by King (1996: 344) who warned that the term spirituality will bear more difficulties as it gets wider clarification because of its flexibilities or ambiguities in its meaning. This chapter discovered that the same concerns exist even within the same context, English-speaking mediation due to the variety of cultures being involved in the context.

Furthermore, by using the terms spiritual and spirituality as one component, they try to convey their arguments as whole rather than to create something commodified such as a category of mediation service. What generated as the precepts in this chapter can be shared with their prospective clients to conduct faith-based mediation; however, Umbreit (2001) stressed mediators should not initiate the spiritual aspect. Mediators who have written accounts of what happened during their mediation sessions, simply felt and shared with others in writing that settlements were achieved in part though the mediator's own will power obtained or deepened by awareness of their own inner self.

The notion of using spiritual or spirituality in the context of mediation seems to be shared with, understood by, emerge and be developed by fellow mediators. Indeed, as Ishikawa (2010) indicates for the use of transliterate spirituality in psychotherapy, the users of spirituality in the context of mediation as well seem to do so because they are so passionate to describe their ineffable, hard to word experiences. When some or all the core precepts are available in a mediation session, such mediation seems to be described with reference to the terms spiritual or spirituality. In the subsequent chapters of the present thesis, these precepts are used to examine whether the notion of spirituality used by Gold (1993 and 2003) and Umbreit (1997 and 2001) is accurately perceived, understood and discussed in the Japanese language. Although commonalities have been found, it is important not to overlook differences in their published opinions or views on mediation despite using the same terms. Overall, the use of the terms spiritual and spirituality is an indication of something important yet hard to describe existing in the user's experiences.

Finally, some important points need to be reiterated in the arguments that are developed in the next chapter. The next chapter addresses two issues. Firstly, it describes the differences

between the transformative model of mediation and what the mediators describe when using the terms spiritual or spirituality. Secondly, it discusses whether the mediation described by those terms are any indication of mysticism.

## 4 Some clarifications for the findings of the textual analysis

### 4.1 Introduction

The aim of this chapter is to clarify some of the findings of Chapter 3. The transformative model and perceptions of spirituality in contrast to mysticism are discussed drawing on the eight precepts generated from references made to the terms spiritual or spirituality in the work by Lois Gold (1993 and 2003) and Mark S. Umbreit (1997 and 2001). Thus, this discussion does not claim to offer any generalisation regarding the references of those terms in the context of mediation but focuses on the two authors' claims, although other authors' publications are used to support their arguments.

Bush and Folger's (1994) transformative model is widely used in the Japanese-speaking mediation context. There are strong similarities between the way the two authors describe their mediation and the transformative model. When the two authors used the terms spiritual or spirituality in the context of mediation, references were made to shifting clients' consciousness to the higher level when settling disputes (Gold, 1993 and 2003) and Umbreit (2005) claimed his model of mediation had developed in parallel to the transformative mediation. It is therefore unclear in what ways what they are describing is distinctively different from transformative mediation. This chapter first discusses the similarities and differences between mediation described by the terms spiritual or spirituality and transformative mediation.

Secondly, according to Jones (2016), the modern philosopher of mysticism, the state of mysticism is something directly experienced by the subject him or herself through the visions, auditions and any other sensory systems. Gold describes her client's state during mediation sessions as "almost trancelike" (Gold, 1993: 64 and 2003: 204). What Lois Gold and Mark S. Umbreit referred in their publication were the state of settlements happened in their mediation sessions as a result of shifting their consciousness to a higher level.

This description of a moment of settlement, which brings about a long-lasting transformed state, is very similar to a description of mystical experiences found in Jones (2016), drawing

on William James (1902). However, Jones (2016) further denied calling the experiences as trances. In addition, Waaijman (2002) argued that the overlap between mysticism and spirituality means an indication of being in contradiction of rationality. If the overlap occurs in mediation, it will undermine the rational basis of the practice. As referred in Chapter 1, the modern usage of the term spirituality does not always and necessarily mean to be mysticism of the world's religions (Jespers, 2011).

Hence, the second discussion is about whether those mediators' applications of those terms in the context of mediation is an indication of mysticism. Should it differ, then their usages of the terms spiritual and spirituality in the context of mediation are categorised as something modern and contemporary and distinguished from the traditional use of the terms. This second discussion is particularly important for this research concerning the Japanese language.<sup>106</sup>

By clarifying these two points, this chapter aims to further enhance the understanding of what Lois Gold and Mark S. Umbreit try to convey in their publications by using the terms spiritual or spirituality.

## 4.2 Mediation described with the terms spiritual or spirituality and transformative model

For mediators who use the transformative model, disputes have the negative power to cause self-absorption and self-centredness, which have been described as weaknesses (Bush and Pope, 2002: 74 and 80). Transformative mediators therefore help their clients move from weakness to strength by making a shift to responsiveness towards the opposite party in the dispute, eventually reaching a settlement. Transformative mediation describes such transformation of their clients occurs as a result of, "the empowerment and recognition shifts that the parties themselves make" (Bush and Pope, 2002: 82-83). However, while settlement can be achieved without any intervention from the third party (Bush and Folger, 1994: 106-107; Bush and Pope, 2002: 80), transformation has also been identified as hard

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<sup>106</sup> As mentioned in Chapter 1, Sakurachi (1997) translated the English term spiritual as *shinpi* (神秘). These two Japanese *kanji* letters are used as *shinpi-shugi* (神秘主義) meaning 'mysticism'.

for clients to make on their own, thus the need for transformative mediators (Bush and Pope, 2002: 82-83; Bush and Folger, 1994: 99-104, 275-276).

In mediation where applies transformative model, mediators support their clients to come to their own conclusions and settlements if they wish and do not evaluate their dispute nor their circumstances in the way that a lawyer or judge does (Bingham, 2012: 358). Transformative mediators believe that their clients using their mediation service might find “a better alternative” to negotiation between themselves or submission before a judge in court (Bush and Pope, 2002: 68-69). The transformative model also respects communication between the disputing clients, values mediator empowerment of clients, and encourages clients to recognise their counter parties’ perspectives (Bingham, 2012: 358).<sup>107</sup> Clients expect their mediator to help reverse “the downward spiral and restoring a more humane quality to their interactions” that was present before coming into conflict with the other party at least for the period of attending the mediation sessions (Bush and Pope, 2002: 75).

When Gold (1993 and 2003) and Umbreit (1997 and 2001) expressed their views about mediation, their precepts seem to contain similar elements that are characteristics of the transformative mediation model. For example, a sense of connectedness between the mediator and their clients is experienced at the very moment of settlement. The clients’ perceptions are seen as undergoing a transformation because of communication involving the mediator, which leads to a shift in consciousness to a higher or upper level.

However, certain claims made by those mediators using the terms spiritual or spirituality are clearly different from the transformative mediation model. Firstly, mediators who use those terms refer to the importance of the inner self and well-being of a mediator as directly influencing their relationship with their clients and the relationship between the clients. The mediator’s inner relationship with the self has an impact on the quality of his or her external relationships, including with the clients. Secondly, those mediators acknowledge the influence of their internal perceptions towards their clients’ cases. These points have been discussed and shared not only by Gold (1993 and 2003) and Umbreit (1997 and 2001) but also by other mediators, as seen in Chapter 3.

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<sup>107</sup>Please see Walker (2001) and Jurevic (2000) for an example of where spirituality of mediation and the transformative mediation are compared and contrasted, although their arguments did not focus on the Japanese mediation context.



At the same time, mediators who refer to spirituality show no intention of forming a new model of mediation and cannot be categorised as a group of mediators because each mediator has their own opinions and values even though they may refer to the same terms. As a result, many models can be spiritual, and mediation described as such can be inclusive of many models (Roche, 2017). Jones (2009) even claims that mediation which is spiritual in nature is always appropriate in solving a dispute.

While spirituality was identified in indigenous mediation as one element in their practice (Huber, 1993; Shook and Kwan, 1987; Walker, 2001), some have integrated indigenous mediation's spirituality into a practice method so that to use in non-indigenous mediation (Barnes, 1994; Huber, 1993; Wolf, 2017). As seen in the recent application of ho'oponopono in the non-indigenous mediation (Goldberg and Blancke, 2011 and 2012), the application of each spirituality is not limited to a specific mediation context. The meaning of spirituality used in the context of mediation develops rather flexibly without referring to the previous articles published in the context (for example, Matthews-Giba, 2000 and Bobrowski, Timor, and Ronel, 2017). This seems to accelerate the inconsistent meanings of those terms used in the context of mediation. Simply acknowledging transformation as important in dispute settlements does not unconditionally make the transformative model spiritual in nature or vice versa.

Furthermore, it is worth mentioning that some mediators have described similar phenomenon to some of the precepts of spirituality in the context of mediation but without using those terms. The most obvious one is Umbreit himself, whose lecture makes no reference to the spiritual or to spirituality (Ishihara, 2017b). This means that his views not only exist independently from those terms but that the component expressed by using those terms can be decodified and embedded into other parts of his whole of argument. In his case, his humanistic mediation model or approach is the whole, which is certainly a different, separate model from the transformative mediation model. This illustrates that the component expressed by the terms spiritual and spirituality in Umbreit's humanistic mediation model is not the significant element to distinguish the two models. Not only that, the component, spirituality, is not even a main point to form the humanistic model since the model can be described without using the term.

The next example is Cobb (2001) who published an article in a special edition of the *Fordham Urban Law Journal* on law and spiritual value. In this issue, the editors stated that their focus was on the relationship between religion or moral values and legal methods of solving issues. In her contribution, Cobb (2001: 1017) shared what she calls a 'sacred' dimension to mediation:

*[t]here have been times, during the course of a mediation, [...] when I have had the impression that something happens in the room, something that is more important than the agreement that is emerging, that the conflict is itself just a vehicle for the creation of something sacred, something whole, something holy.*

Cobb struggles to find words to describe this ineffable aspect of her experience in the mediation session yet does not apply the terms spiritual and spirituality to describe the similar experience as Gold (1993 and 2003) and Umbreit (1997 and 2001) who show no hesitation to select these terms to do so. Cobb (2001) goes on to describe the place in which such a shift takes place as a 'sacred space'. Both Gold (1993 and 2003) and Umbreit (1997, 2001 and 2005) also associate the notion of the 'sacred space' with spirituality in their mediation practice. In other words, as seen in what Cobb (2001) described, what described as spirituality in mediation by Gold (1993 and 2002) and Umbreit (1997 and 2001) can be expressed without using the terms spiritual or spirituality.

Cobb's description also highlights some differences between her mediation experience and the transformative mediation model. While a sense of sacredness or holiness is acknowledged by other mediators who use the terms spiritual and spirituality (Zumeta, 1993; Menkel-Meadow, 2001; Jones and Georgakopoulos, 2009; and Jones, 2009), they also make a distinction between the idea of sacredness or holiness providing a 'safe' space and the simple creation of such a space. Thus, while creating a safe space is recognised as important in transformative mediation (Barsky, 2016: 318), that recognition does not mean that mediators are being encouraged to acknowledge any sense of holiness or sacredness. By contrast, for Gold (1993 and 2003), awareness of the sacred, or of other terms associated with the spiritual, is an important factor in her healing paradigm. In other words, Gold (1993 and 2003) and Umbreit (1997 and 2001) refer to the spiritual or spirituality to emphasise this sense of sacredness or holiness in their mediation sessions which are a 'safe' space as a result.

Cobb (2001) also refers to the different levels in mediation. The first level involves working with the moral frameworks of disputing clients; the second level is to advance the morality which is the party's way of dealing with other people. The task of the mediator is then to reframe the disputing clients' moral frameworks (Cobb, 2001: 1033). A shift in the disputing clients' perceptions occurs and that shift leads to a successful outcome, that is a settlement (Cobb, 2001: 1032). Davis (1989) describes a successful outcome in mediation as 'magical'. By using the term 'magic', Cobb (2001: 1018) argues "what we take as "magic" is, in fact, a set of technical practices that yields shifts in interactional patterns". Although she does not make explicit reference to 'spirituality', which nonetheless is not the same as 'magic', her descriptions of the shifts in consciousness of the clients and the mediator's influence in bringing about that shift through their interaction with the clients, are similar to mediators who do refer to spirituality.

Nonetheless, the descriptions also appear to be different from the transformative model because of her use of words such as sacred and holy. The clients may reach an agreement to settle their issues because of the shift in consciousness or in their moral framework, yet reaching an agreement in mediation does not necessarily require a shift in the quality of her clients' relationship (Cobb, 2001: 1017). Such shifts are due to the constructed "nature of the reality" which "is dependent upon the nature of the descriptions that "observers" make of the system", and, thus, mediators as the "observers" can influence the context of the issues which are brought to their mediation sessions (Cobb, 2001: 1029).

Because settlements in mediation are possible without such a shift, not all mediation need to acknowledge described sacredness or holiness, to be spiritual, or to apply transformative model or any other models making the shifts as a result. Cobb's account of her experience as a mediator shows that the precepts discussed in the previous chapter can be expressed without reference to the terms spiritual or spirituality.

Another example is Moore (2014: 38):

*[t]he mediator may focus on his or her energies on changing the psychological barriers to reaching understandings or agreements, or the interactions and relationships shared by multiple disputants, the negotiation process or the procedure being used by one or more people to resolve the dispute, or substantive barriers to*

*settlement – lack of informations<sup>108</sup> different interpretations of date, limited acceptable options and so forth.*

This extract comes not from a personal account of mediation but from the 4<sup>th</sup> edition of the classic mediation textbook originally published in 1986 (Moore, 2014). Although Moore does not explain further what he means by ‘energies’, there is an acknowledgement, based on his ‘knowledge’ as a mediator that such invisible, yet definite influences are present in mediation.

What emerges from those examples of Cobb and Moore is that the phenomenon described by those eight precepts in the previous chapter is partially different from the transformative model, can be a part of any mediation including the transformative model, and can also be expressed without using those terms. In other words, there are no clear-cut differences between mediators who used those terms and those who do not. As demonstrated in Cobb (2001) and Moore (2014), mediation which are described by the terms spiritual or spirituality may have already been illustrated by other authors without using such terms, although identifying such publications seems a huge, if possible at all, task, due to the breadth of the field of mediation.

Although some authors, including Huber (1993), Barnes (1994) and Umbreit (1997 and 2001), have attempted to create their own mediation models such as medicine wheel, pacific or humanistic models, based on their definitions of spirituality, those new models do not prevent other mediators from using those terms outside of their mediation models. This component labelled as spirituality is a symbolic tool for them to convey their understanding of the mediation process. Even then, that does not promise its user an exclusive right to use the label.

When it does not form that most important part of the argument a mediator is making, then the component might not be mentioned at all, as seen in Umbreit (Ishihara, 2017b) who in fact, at a later stage, removed the framework of a practice model from his humanistic model and, instead, called the same as a ‘humanistic approach’ (Lewis and Umbreit, 2015), Cobb (2001) or Moore (2014) as discussed above. Such a codification or symbolisation using the terms spiritual and spirituality is important at least for Lois Gold and Mark S. Umbreit. An

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<sup>108</sup> The spelling as in original.

application of transformative model using the shifts to settle the dispute is always being so labelled because the shift is its main argument and cannot be omitted from the model. Hence, it is, and will always be, an established practice model proposed by Bush and Folger (1994).

As discussed at the beginning of this chapter, Japanese scholars of mediation value the work of Umbreit (2001) and have introduced his mediation model and theory, together with Gold's (1993) work into the Japanese-speaking mediation context by translation. The terms spiritual and spirituality are thus included as only a part of the theories presented by these mediators. In addition, by arguing the similarities and differences between the transformative model and what are described by the terms spiritual and spirituality in the mediation context, this section has reiterated that spirituality can only be a component of mediation practice regardless of the model, approach or argument.

These points may not be reflected accurately by using transliterated spirituality which is also used for commodified spirituality such as 'spiritual' counselling in Japan. Similar references to cause a shift in order to settle by using the terms spiritual or spirituality also resemble the shift acknowledged in the transformative model and confuse the Japanese-speaking audience as though the terms create a new mediation model because of the existing bias given by commodified spirituality. It is, thus, hard to deny that the translation did not pay much attention on these terminologies such as the consequences of using the selected translation in the Japanese-speaking mediation context.

The next section discusses the differences or similarities between spirituality and mysticism to ensure that the eight precepts do not appear to contradict of rationality (Waaijman, 2002: 357) and also to discover whether the term spirituality used in the context of mediation is a modern usage or traditional one (Jespers, 2011).

### **4.3 Spirituality in the context of mediation and mysticism**

Spirituality has been described by Nun (2011) as something independent from existing concepts such as mystical, peak or religious experiences. One participant she interviewed in her research states:

*When someone asks me my religion my answer is usually, I'm a Jewish Christian Native-American Buddhist with undertones of Sufism. So I have studied in all of those arenas, I have practiced in all of those arenas, I have had what some would call mystical experiences in all of those arenas through all of those languages, you could call them languages or cultures, and they are all basically the same regardless of the differences in their outer forms, the essential teaching is the same: we are one, God is love, it's about relationships, it's about unity, it's about interdependence, it's about mutual responsibility... you could translate it into very concise ethical, moral, behavioral norms. (Nun, 2011: 54)*

Because psychologised spirituality and mysticism have been seen as part of an emerging 'New Age' spirituality market, as well as one example of the silent take over by religion (Carrette and King, 2005), it is important to analyse whether spirituality used by Lois Gold and Mark S. Umbreit in the context of mediation is an indication of mysticism.

William James (1902) is often cited by Japanese authors articulating mysticism in modern Japan. This is because when mystical consciousness is discussed, the analyses of Western and Japanese philosophers are made based solely on their arguments rather than based on their cultural origins such as comparing cultural backgrounds (Roy, 2013; Ueda, 2008). When mystical consciousness is discussed, the writers' arguments are made based on certain philosophical or religious doctrines rather than the views that are dominant in the place or country in which they are geographically based (Roy, 2013).<sup>109</sup>

This explains the reason Numata (1998) cites James to discuss mysticism in the Japanese academic context when concerning the function of religion in the society. Since the notion using spirituality in mediation has already been in the Japanese-speaking mediation context and the audience acknowledges mysticism described by citing James (1902), to begin with the analyses of this section firstly based on Western philosophers should justify the situation in the Japanese-speaking mediation context.

James (1902: 329-330) defined mystical experiences as having four elements, which are ineffability, noetic quality, transiency and passivity. In further explanations of those terms, he (1902: 330) states that mystical experiences are such that the feeling or situation must

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<sup>109</sup> In Roy (2013), the comparisons were made between the views of Plotinus, Eckhart, Bohme, Schelling, and Heidegger in addition to Nishitani Keiji's interpretations of those regarding nothingness. However, those comparisons were not made based on where they were from but how they viewed nothingness. Roy (2003: 158) disagrees with Nishitani's opinions on Plotinus simply because his views were different from Nishitani's but not because Nishitani was a Japanese thinker; Roy (2003) certainly acknowledged the influence of Zen wisdom on Japanese scholars such as Nishitani, Hisamatsu Shin'ichi, and Daisetz Suzuki.

be personally experienced to understand, as it cannot be transferred to other people unless they directly experience it. Once one experiences it, it remains with the individual as knowledge, although the experience itself is transient.

If his definition stopped with the first three points, spirituality in the context of mediation as generated in Chapter 3 might well overlap with his definition of mystical experiences. However, the last element he identified describes what might happen to the individual during the mystical experience. James (1902:331) wrote, “when the characteristic sort of consciousness once has set in, the mystic feels as if his own will were in abeyance, and indeed sometimes as if he were grasped and held by a superior power. This latter peculiarity connects mystical states with certain definite phenomena of secondary or alternative personality, such as prophetic speech, automatic writing, or the mediumistic trance”. During mediation sessions, mediators stay in charge. No mediator in Chapter 3 has described any of the “mystical states” that James mentions occurred to them.

Evelyn Underhill (2009/1911), whose work may now be described as a classic yet still remains relevant (Sheldrake, 2011: 32), offers her definition of mysticism as, “[a]ll those so called “hallucinations of the senses” which appear in the history of mysticism must, then, be considered soberly, frankly, and without prejudice in the course of our inquiry into the psychology of man’s quest of the Real” (Underhill, 2009/1911: page 200). Mysticism is, “the expression of the innate tendency of the human spirit towards complete harmony with the transcendental order; whether be the theological formula under which that order is understood. This tendency, in great mystics, gradually captures the whole field of consciousness” (Underhill, 2009/1911: location 196). In her view, mysticism is different from psychology, metaphysics, occult philosophy or psychic phenomena (Underhill, 2009/1911: location 172).

Underhill’s definition of mysticism also appears different from what mediators describe as spirituality based on their experiences. Some of those mediators whose articles were analysed in Chapter 3 only claimed that they felt a shift to a higher level in consciousness. Although their feelings of relating to their clients through their consciousness may indeed be concerned with the field of consciousness, moments of feeling connected with their clients do not appear to be ‘hallucinations’. Their account of ‘feeling’ connected to their

clients at the moment of settling the issues is their dialogue of the past experiences labelled as spirituality.

However, are their experiences described by the terms spiritual or spirituality also something akin to more contemporary mysticism which are outlined as follows? In a survey conducted in the USA to observe what people's 'mystical' experiences were like, Greeley and McCready (1975) found that for 55% of respondents it was a feeling of deep and profound peace; 48% described the certainty that all things would work out for the good; 43% defined it as a sense of a personal need to contribute to others, a conviction that love is at the centre of everything, and as a sense of joy and laughter; 39% described it as an experience of great emotional intensity; and 32% spoke of a mystical experience as a great increase in their understanding and knowledge (Greeley and McCready, 1975: 25).

What amounts to mystical experiences have also been discussed in studies that attempt to identify it with symptoms of psychopathology.<sup>110</sup> Those who report experiencing the paranormal, including mystical experiences such as being bathed in light (Greeley, 1987a, 1987b, and 1991), "are, for the most part, ordinary Americans, somewhat above the norm in education and intelligence and somewhat less than average in religious involvement" (Greeley, 1987a: 8). Greeley (1987b) also conducted a psychological test on people who had had mystical experiences using the Affect Balance Scale of psychological well-being to find that they achieved top scores. Mediators may well fall in these groups of people.

However, the 1975 survey by Greeley and McCready (1975) asked the participants who claimed to have had mystical experiences to check the closest descriptions given in the survey for their self-declared mystical experiences. Greeley and McCready (1975: 15) were interested in what population of the USA had experienced mystical experiences in addition to what the experiences were like; this remained the same for the 1987 poll. In other words, the surveys asked leading questions to its participants who possess a certain level of knowledge and intellectual abilities.

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<sup>110</sup> See for instance, Caird (1987), Castro, Burrows, and Wooffitt (2014), Greeley (1975), Greeley and McCready (1975), and Leslie, et al. (2015).



Then, one may start wondering whether and how the source used to generate those questions managed to eliminate the researcher's reflexivity. Because of such difficulties in formulating questions to define contemporary mysticism for the survey or interviews, which Greeley and McCready (1975) bluntly admitted in forming their survey questions, it is still wise to yield defining modern mysticism to contemporary philosophers since their arguments together with above discussed those traditional ones contribute to the modern understanding of what mystical experiences are like.

Similar to Underhill (2009/1911), Kakar (1991: 23-24) also supported a clear division between mysticism and hallucinations and suggested that the religious term 'vision' should be used to describe mystical experiences, although the central common feature of mysticism and religious vision was noted as "the intense affect they generate, an affect that endows them with their characteristic sense of noesis" (Kakar, 1991: 24). Simply put, the mediators cited in Chapter 3 express how they felt as mediator during a mediation session and one can easily imagine their feeling of being connected is, in a literal sense, feeling united with their clients through looking at the issue together and having a shared goal which is to settle the dispute.

More recently, Jones (2016) has discussed more current interpretations of mysticism, drawing on Otto (1932) and Stace (1960). Mystical experiences can be defined as something that people whose views are restricted to the material world have not experienced before and can be viewed as consisting of two dimensions: extrovertive and introvertive. The former is a sense of unity with the One perceived in an external world of oneself while the latter feels it as an inner subjectivity in all things including oneself (Jones, 2016: 6). Some commonalities of both types of mystical experiences are illustrated such as to reduce the ego-self; not to feel time; to focus on one's own consciousness; not to be able to express what is happening or has happened; to feel peace; to have positive feelings and no negative ones; to cognitively have touched definite reality and reached the fundamental nature of oneself (Jones, 2016: 6 by referring to Hood, 2002 and 2005).

Comparing these definitions of mysticism, one can see some connection with the experiences described by mediators themselves. The ineffability of what they have experienced, the reduction in if not total loss of own ego-self, and an insight of fundamental

reality, may have some resemblance to what mediators describe when using the terms spiritual or spirituality. However, mystical experiences are shaped by the experiencer's experiences, not the observers. What is described as spiritual or spirituality in Chapter 3 is based on accounts by mediators including Lois Gold and Mark S Umbreit in their roles as mediators, witnessing the settlement of disputes as a result of shifts in consciousness. In order to conclude that these are therefore mystical experiences, their clients who attended the sessions would need to claim the same phenomena independently. Such views were not apparent in the publications by not only Gold (1993 and 2003) and Umbreit (1997 and 2001) but also any other authors referred the terms spiritual and spirituality in their mediation articles.

In addition, Jones (2016) describes how the purpose of being mystical is, "*to correct the way we live* by overcoming our basic misconception of what is in fact real and thereby experiencing reality as it truly is, as best humanly possible" (Jones, 2016: 7 emphasis in the original). This point further differentiates mysticism and spirituality in mediation. In mysticism, the purpose is to pursue a mystical way of living. The majority of the authors analysed in Chapter 3 describe their mediation experiences as spiritual in nature yet the focus in the mediation session is solely on the clients trying to settle their issues, not the mediators pursuing a spiritual way of living through their work. It is the clients who may need to change or shift their consciousness so that to transform the way they see their issues by discussing with the other parties in the dispute to reach a settlement. Although Jones (2016) described mystical experiences as involving a shift to another level to transform the state of the person for a long-lasting effect, no clients' accounts of what happened are cited by any authors who use the term spiritual or spirituality in their mediation publication. In using those terms, they refer only to their perception of the client's process as a mediator; their wordings published do not come from their clients.

Although Gold's (1993: 64; 2003: 204) subjective account regarding the 'almost trancelike' state of her clients during her mediation sessions may resemble mystical, such a state of trance cannot be defined as a mystical experience (Jones, 2016). When struggling with issues in one's life such as disputes, clients in mediation may have minor mystical experiences, which can occur in one's personal life, not necessarily as ecstatic rapture but as a feeling of being at one with 'God' at a deep level of faith (Kakar, 2007). Even so, such

account still needs to be from the clients not their mediators because, again, those who experience such life struggles and issues are the clients, not their mediators.

Finally, if their description using the terms spiritual or spirituality does not fall the definition of mysticism, then would it be a 'psi' experience? According to Radin (2009: 314), directly experiencing such an interconnectedness described by Gold (2003 and 1993) and Umbreit (1997 and 2001) can be either a mystical experience or a 'psi' experience. 'Psi' experiences are defined as like the attention paid by mothers to their babies, "even when her conscious mind is asleep [...] regardless of where the people or events happen to be. If something important happens to those people, especially life-threatening events, the interconnected part of us "recognizes" that this is useful information and brings it to our awareness" (Radin, 2009: 314).

The mediation experiences described in Chapter 3 seem not to match this description of 'psi', either. Mediation relationships between mediators and their clients clearly do not involve life-threatening events, even if a mediator develops a deep emotionally connected relationship with their clients. What they state is simply how they as mediators have felt when reaching a settlement, by using a metaphoric description of a shift in consciousness to a higher level (Gold, 1993 and 2003; Umbreit, 1997 and 2001). To put it more simply, these are descriptions of how they felt and not an empirical claim of an actual phenomenon that occurred in their clients. Those mediators' descriptions using the terms spiritual or spirituality thus do not fall either of Radin's binary category of being mystical or psi experience; hence, their references to those terms are clarified as no indication of mysticism at all.

The question as to whether Gold's and Umbreit's accounts of their experiences as mediators can be seen as mystical experiences had to be addressed because an author's philosophical or religious doctrine will have considerable influence on their mystical consciousness (Roy, 2003). If the mystical consciousness embedded in those mediators' voices needed to be discussed in the context of Japanese-speaking mediation, the influence of Zen cannot be ignored, especially where mysticism is equated with the 'emptied' mind' (Jones, 2016; Kakar, 1991; Roy, 2003). In Zen, such an emptied mind is described as a switch from a

conceptualising mind to a non- conceptualising mind (Jones, 2016), which has very different implications when applied to the mediation context.

However, even though there is a degree of overlap between the experience the two authors describe and experiences referred to as mystical, the spirituality they refer to cannot be equated with the mystical because their accounts do not represent the experience of their clients. As Jones (2016) has argued, non-mystical experiences can also bring about transformative and the long-lasting effects in individuals, and the phenomena witnessed by these two authors fall into this category. Therefore, the discussion in this section concludes the terms spiritual and spirituality used by mediators, especially by Lois Gold and Mark S. Umbreit, are a rather contemporary usage which is distanced from mysticism of the world's religions (Jespers, 2011).

## 4.4 Conclusion

This chapter has discussed two issues. The first is the differences between the generated eight precepts and the transformative mediation model. The second is to consider whether the eight precepts generated from Gold's and Umbreit's descriptions of their mediation practices can be seen as mystical experiences. Although similar wordings are used, these experiences which are described by using the terms spiritual and spirituality, are different both from transformative mediation and from what are defined as mystical experiences.

More precisely, the transformative model does not claim that the inner wellbeing of a mediator influences the mediation outcomes through non-semantic communication during the mediation sessions. On the other hand, the transformative model does recognise the importance of a safe space and of the mediator helping their clients to transform during the sessions. However, mediators who explicitly make reference to spirituality tend to describe the safe space as sacred or holy. At the same time, based on the comparison, the analysis also found that mediators who did not use those terms, nonetheless had similar recollections and inputs.

This finding leads to the conclusion that the selection of those terms to describe their mediation practice is rooted in each mediator's professional or personal preferences.

References to the spiritual or spirituality should be considered as a symbolisation of their claims, symbolisation that allows the mediators to emphasise the important aspects of their argument. However, due to the ineffable, fluid nature of those terms, each argument varies, even though they may use the same terms and conversely, it is possible to express similar experiences without using those terms.

Furthermore, the similarities in the use of words such as 'being' 'oneness' or 'connectedness' are evident between references to spirituality in Gold (1993 and 2003) and Umbreit (1997 and 2001) described by the terms spiritual and definitions of mystical experiences as described in the literature. This chapter has emphasised that what Gold and Umbreit describe in their articles are their own experiences of mediation and not those of their clients. Although the mediators themselves may see these similarities, mystical experiences need to be described by the experiencer of the transformation as a result of the indicated shift. In the context of the present thesis, the experiencer is not the mediator but the clients who are attempting to reach a settlement. What the two authors describe as a mediator by using the terms spiritual and spirituality does not appear to be an indication of mysticism and therefore, can be seen as rational. Finally, their usages of the terms should be considered as modern and distanced from the mysticism of the world's religions.

With regards to whether spirituality means a contribution to the mediation practice held in the Japanese language or merely creates controversy to the context, it cannot be assumed at this point of arguments which the notion has only been considered in the English-speaking mediation context. This is especially so, as shown in this chapter, what labelled as 'spiritual' or 'spirituality' in the English-mediation context can be described without being codified by these terms. What these terms describe do not form one independent mediation model or group mediators into one despite the impact and complication these terms bear in the context. This has been discussed in Chapter 2.

In order to understand the consequences of introducing the notion expressed by those terms to the context of Japanese-speaking mediation, the subsequent chapters closely analyse the Japanese-speaking mediation context. More specifically, Chapter 5 will articulate the development of mediation in Japan as well as the expectations the Japanese-speaking mediation users bring to mediation. Such an overview will allow Chapter 6 to

analyse the impact of the introduction of the notion to the context and the suitability of the currently applied translations. In other words, transliterated spirituality, one of the applied translations for the English terms spiritual or spirituality in the context of mediation, cannot be understood without an understanding of the historical and social context in which it is used (Hirano, 2015; Horie, 2015).

# 5 Has Japan's mediation ever been 'spiritual'?

## 5.1 Introduction

By reviewing the development of mediation up to and including the consequences of the recent enforcement of the Act on Promotion of Use of Alternative Dispute Resolution 2004 (the 'ADR Act 2004') and discussing the users' expectations when seeking mediation in Japan, this chapter addresses whether Japan's mediation has ever been 'spiritual'.<sup>111</sup> This is the fourth objective identified in Chapter 1. This chapter also expects to uncover whether no evident increase in the numbers of people using mediation posited by the Japan ADR Association (2018: 3) has anything to do with introducing the notion of using spirituality to the Japanese-speaking mediation context.

Forms of mediation have been used in Japan since early as A.D. 894 (Callister and Wall, 1997: 313; Kakiuchi, 2015; Yanase, 2013: 40-44). However, the notion of using spirituality in the context of mediation was first introduced to Japan's mediation context in 2007 by translating the English term spirituality either with *seishin* or transliterated spirituality (Fujioka, 2007; Kumamoto Jinzai Shinbun, 2012). Chapter 2 already discussed the issues concerning these applied translations.

Both are possibly unsuitable or at least problematic as translated equivalents of the English term spirituality if the term has intersected with Japan's mediation development earlier than 2007. Although in a public lecture, Ishihara used transliterated spirituality (Kumamoto Jinzai Shinbun, 2012), her reasons for choosing this translation were not clarified. Likewise, Fujioka (2007) in her translation on mediation published five years before Ishihara's public lecture, does not give any explanation why she chose either *seishin* or transliterated spirituality to translate spirituality in the mediation context. As a result, their translations have caused confusion in the Japanese-speaking mediation context and hindered its development; yet one may recall the discussions in Chapter 3 and 4 that the same or similar phenomena can be described without using the terms spiritual or spirituality.

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<sup>111</sup> Haley (1994: 17) reiterated the importance of the review because "[o]ne cannot understand the present without an appreciation of the past and the role of present perceptions of that past. To appreciate the historical dynamics of [the issue] is vital both to comprehend more fully the present as well as to predict more accurately the future".

Bearing those points, the first section in this chapter examines whether mediation in Japan has been discussed with reference to the precepts presented in Chapter 3. It aims to establish whether mediation practice has ever been spiritual in the sense that Gold and Umbreit use the term in their work. If the same or a similar notion has developed and been used in Japan's mediation context, the following section discusses the consequences of such an introduction by using the transliterated term, which would generate more controversies than contributions to the development of mediation practice in Japan. If there is no intersection with those precepts, then the expectations in Japan's mediation should be in place so as to identify whether or how those precepts fulfil those expectations.

The findings presented in this thesis so far have laid the foundations that make it possible to examine the suitability of the currently applied translations for the terms spiritual or spirituality. This chapter's findings together with the foundations will enable the latter chapters to identify and discuss the contributions and controversies brought about by applying spirituality to the Japanese-speaking mediation context.

## **5.2 Development of mediation in Japan up to the ADR Act 2004**

Mediation has long been used in Japan even before the country established the foundation of the judicial system that is currently in place. The service has not been referred to using the same terminology. Using transliterated mediation to identify the private mediation available in Japan's ADR is only a recent development. In reviewing the development of mediation in Japan, Callister and Wall (1997) use two categories: formal or informal dispute resolution.

However, the complexity of the development of mediation development in Japan is better illustrated by using Baum's (2013) approach, which is to divide its development into several historical periods.<sup>112</sup> By paying more attention to the mediation practices that have developed in contemporary Japan, this section aims to observe whether similar notions to

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<sup>112</sup> As Yamamoto (HoC, 2004b) pointed out, Japan and the USA's mediation development and social circumstances are significantly different and thus, Japan's ADR development cannot and should not be discussed by using the same three-tier framework which are formal, informal and semi-formal justice systems as suggested for the USA's mediation practice by Menkel-Meadow (2013).



the eight precepts have ever been part of its development and, if discovered no such an evidence, also establishes the background for the next section which discusses people's expectations when using a mediation service.

### 5.2.1 From 604 AD up to and including the *Edo* period<sup>113</sup>

The promulgation of the Seventeen-Article Constitution by Prince Shōtoku in 604, emphasised by Article 1 of the constitution, states that *wa*,<sup>114</sup> harmony, must be valued and respected (Prince Toneri, 720; Okano, 2003).<sup>115</sup> Mediation has been used in Japan on an *ad hoc* basis and was used before its court system was established, serving and preserving the value of *extrajudicial* justice rather than being an alternative to adjudication (Callister and Wall, 1997: 313). Between 1336 to 1603, the *Muromachi* and *Azuchimomoyama* periods,<sup>116</sup> priests appeared to act as intermediaries (Callister and Wall, 1997: 313). However, there is no evidence after this period that third-party mediators have always been religious leaders; especially in the *Edo* period, the government soon started using a system called *naisai*.<sup>117</sup>

In the *Edo* period, from 1603-1868, people's movements were restricted socially and geographically. The *Tokugawa* shogunate, which is described as having, “fostered the antilitigious<sup>118</sup> sentiments [...] through the widespread adoption of Confucianism and the doctrine of *wa*” (Hahn, 1983: 517; Uchtmann, Blessen, and Maloney, 1987: 351),<sup>119</sup> village elders or respected individuals within local communities acted to settle disputes between community members. This practice is *naisai* which means the equivalent of ‘trials’ in modern Japan (Baum, 2013: 1015; Tanaka, 2000: 106-107).

*Naisai* were held without using codified legislation but involved the government intervening in the dispute to harmonise the situation (Tanaka, 2000: 107). Their ‘justice’ was delivered flexibly by weighing up the involved individuals’ benefits and community advantages (Tanaka, 2000: 107). The overall aim of *naisai* was to settle and re-establish harmonious relationships between all of those involved. This took place in a rather flexible society that

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<sup>113</sup> The Japanese translation of *Edo* is 江戸. The *Edo* period was from 1603 to 1868.

<sup>114</sup> The Japanese translation is 和.

<sup>115</sup> This constitution influenced people throughout the *Edo* period until the *Meiji* era began in 1868, which was soon after Japan opened its trade markets to other countries by ending the policy of seclusion.

<sup>116</sup> The *Muromashi* (室町) period was from 1336 to 1573, and *Azuchimomoyama* (安土桃山) from 1573 to 1603.

<sup>117</sup> The Japanese translation of *Naisai* is 内済.

<sup>118</sup> As appears in the original text.

<sup>119</sup> However, this notion of respecting *wa* had already been in the country since 604 when Prince Shōtoku promulgated the Seventeen-Article Constitution. This will be further discussed in the subsequent section.

did not have a set of rules equivalent to legislation. In place of legislation, there existed unspoken rules of respecting emotional stability and harmony; this was its social foundation (Tanaka, 2000: 107).

From the end of the *Edo* to the beginning of the *Meiji* period<sup>120</sup> was a transitional period. Alongside continued and strong respect for social harmony in the courts of shogunate, a judicial system began to be developed in Japan (Baume, 2013:1013-2015; Callister and Wall: 312-313; Uchtmann, Blessen, and Maloney, 1987: 351). Its legal systems, including its Diet, municipalities, counties and prefectures, its laws, including the Constitution and its legal system were all developed during this time (Sumioka, 1992: 4).

During this period, Japan's court systems continued to develop yet still accommodated a traditional approach which is to respect *wa* in society by enacting *Kankai Ryakusoku* in 1884.<sup>121</sup> Under this 'legislation'-like order (Hahn, 1983: 519), judges were granted the role of conciliator in dispute proceedings brought before the courts. *Kankai* had its roots in and took over from the system set up under *naisai* (Eto, 1993). Even then, people who insisted on their entitlements and fairness in their communities, were considered as violating and threatening community harmony even though they did not bring what is called litigation in modern Japan (Tanaka, 2000: 107). They were as a consequence oppressed by using various social pressures, including *murahachibu*,<sup>122</sup> 'community ostracism' (Lebra, 1976: 36).

### 5.2.2 From *Meiji* up to the Enactment of the ADR Act in 2004

In the *Meiji* period, Japan established a legal system that was heavily reliant on European law such as French and German law (Hahn, 1983: 519-521; Ishikawa, 1995: 122; Suami, 2013: 251; Tanaka, 2000: 109-110).<sup>123</sup> As Japan's legal system began to function, the central government simultaneously established more concrete roles for its self. At the same time, extrajudicial mediation practices became increasingly voluntary and more informal in nature. When people brought their issues to a third party, the third party might still be a community

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<sup>120</sup> The *Meiji* (明治) period from 1868 to 1912.

<sup>121</sup> The Japanese translation of *Kankai Ryakusoku* is 勸解略則

<sup>122</sup> The Japanese translation is 村八分.

<sup>123</sup> Although this is still important to acknowledge, further discussions on the influences played by other judicial systems would be outside of the scope of the present thesis. Even though there were some influences from other countries when setting up Japan's legal system including codification of law, such would not change much or give points to the core argument of the present thesis, which seeks any intersection between spirituality and the development of mediation. In addition, establishing which countries most influenced Japan's legal development can be a subject for another thesis.

member who was in a position of trust. They did not intervene for money but acted simply out of good will for fellow friends, colleagues or their community.

*Kankai Ryakusoku* was eventually abolished in 1891 by an enactment of *Minji Soshōho* (Act No. 109 of 1996 as amended),<sup>124</sup> the Code of Civil Procedure. Despite this enactment, *chōtei*,<sup>125</sup> a court-connected mediation being considered to have integrated *kankai*, was continued to be in use. Although the justice system was fully developed, the system of *naisai*, which was founded in the *Edo* period and was succeeded by *kankai* in the *Meiji* period, was commonly used even after changing its name to *chōtei* (Tanaka, 2000: 105-106 and 2006). Due to the strong respect and intention to maintain *wa*, which had been appreciated the most throughout those periods, *chōtei* remained an important alternative to litigation alongside the established legal system of the country (Callister and Wall, 1997; Tanaka, 2000: 110).

As a consequence, people privately and voluntarily settled their disputes instead of asking judges to make decisions on them (Baum, 2013; Tanaka, 2000: 105-106). Even in courts, judges were and still are, authorised to suggest conciliation before or during the litigation process under Article 89 of the Code of Civil Procedure (Act No. 109 of 1996); the court itself still undertakes mediatory roles (Goodman, 2001: 786-787; Tanaka, 2000: 140-141). As Japan's litigation works as 'a forum for negotiation' (Goodman, 2001),<sup>126</sup> arbitration and other ADR methods are frequently used in place of litigation and this is described as a residue of the non-litigious tendencies evident during or before the *Meiji* period when *naisai* and *kankai* were preferred to litigation (Oda, 1999: 80).

Since 1947, when Family Courts were first established, *chōtei* has been a mandatory procedure prior to starting a litigation process in relation to family issues, according to Art 257 of the Domestic Relations Case Procedure Act (Act No. 52 of 2011). When such compulsory *chōtei* fails, they can proceed with litigation. *Chōtei* in civil matters is not a

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<sup>124</sup> The Japanese translation of *Minji Soshōho* is 民事訴訟法. *Minji Soshōho* is still binding legislation in Japan today, with several amendments made since, and does not include a pre-claim conciliation procedure for civil litigation.

<sup>125</sup> The Japanese translation is 調停.

<sup>126</sup> See the use of 'litigotiation' in the USA (Galanter, 1984). Litigotiation is, "the strategic pursuit of a settlement through mobilizing the court process" by placing the courts, which give the disputing parties bargaining chips or counters, in the central (Galanter, 1984: 268-269). Such may be rare in the adjudication systems in the UK or Germany (Roberts and Palmer, 2005: 315).

prerequisite under the Code of Civil Procedure (Act No. 109 of 1996) to starting a litigation process, although it has been used since 1922 (Kakiuchi, 2015: 370; Irie, 2010: 79).

For both family and civil litigation procedures, *chōtei* personnel are selected and auto-assigned by courts under the Rules for Civil *Chōtei* and Family Affairs *Chōtei* Personnel, established and enforced by the Supreme Court of Japan (Graham, 1993, 1112; Roberts and Palmer, 2005: 315-316).<sup>127</sup> In this sense, both conciliations suggested by courts and *chōtei* may be considered as a pre-step of litigation. However, the important point is that in *chōtei*, the ‘mediators’ are not selected by the disputants. The disputants may be randomly assigned any mediators, regardless of their practice ethos; the introduction of the notion of spirituality to mediation practice can and may have two extreme effects, both positive and negative, in such a scheme.<sup>128</sup>

In the period from *Meiji* to the present, Japan began dealing with one of its societal issues: organised crime groups also known as *Bōryokudan* or *Yakuza*.<sup>129</sup> The restriction was imposed by the system to confine *Yakuza*’s activities due to the fact that their intervening activities in dispute resolution were not always carried out conscientiously and often involved violence or threats, in order to maintain income (Hill, 2003: 94; Sumioka: 1992). Despite the legal restriction on the involvement of organised crime groups in disputes, such groups still exist and try to engage in prohibited, mediatory interventions by using borderline illegal methods, including threats of violence and repeated visits and numerous phone calls to cause a nuisance (Sumioka, 1992: 8-12; Tanaka, 2000: 107). Their now illegal mediatory interventions have most commonly been used for traffic accidents, which involve two or more vehicles driven by ordinary citizens, debt collection, including corporate and personal bankruptcy, and the land-sharking business, *jiage* (Sumioka, 1992: 12-14; Hill, 2003: 92-136).<sup>130</sup>

To prevent the involvement of such groups, which have significantly increased since the 1970s, the time of the ‘Japanese economic miracle’ (Sumioka, 1992), the Diet enacted the

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<sup>127</sup> Such ‘mediation’ may be, “not only inefficacy, it is a contradiction in terms” (Meyer, 1960: 161) in addition to losing “its defining characteristics” as mediation (Ingleby, 1993: 443, 445-449).

<sup>128</sup> This point must be discussed in the section 5.3 in which people’s expectations for mediation are analysed.

<sup>129</sup> The Japanese translation of *Bōryokudan* is 暴力団, *yakuza* is ヤクザ. Both are categorised as organised crime groups.

<sup>130</sup> The Japanese translation of *Jiage* is 地上げ.

Act to Prevent Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991).<sup>131</sup> By Articles 7 and 19 of this Act, interventions by members of organised crime groups are explicitly prohibited. Around the same time, from the 1970s to the 1990s, administrative bodies and professional authorised organisations officially and legally started offering mediation services. Such mediation services are categorised as administrative ADR (Hayashi, 2011: 4; HoC, 2004b: 7-8, 11-12, 26; HoR, 2004a: 7).<sup>132</sup>

Although Japanese people are described as avoiding litigation (Rokumoto, 1986: 207-231; Kawashima, 1967), their infrequent use of litigation does not mean that they ignore their sense of justice and avoid disputes (Murayama, 2017). They simply have more means of resolving disputes prior to becoming involved in litigation. In fact, going through litigation has and still entails financial, time-consuming burdens (Hearn, 2005/1904; Miyatake, 2017). So, what was intended as the contribution of the ADR Act 2004, which came into force in 2007?

### 5.2.3 Enactment of the ADR Act 2004

It was the legal scholars' grass-root activities, drawing on other countries, that led to the government drafting the bill (Ishihara, 2017a).<sup>133</sup> However, the legislature did not consider foreign countries' situation and drafted entirely to fulfil Japan's needs for ADR methods to be regulated (HoR, 2004b: 3, 7, and 30). The enactment of the ADR Act 2004 thus was not intended to introduce or replicate any mediation schemes used in other countries. It was promulgated by considering the United Nations Commission on International Trade Law Model Law to provide ADR in the private sector in Japan.

The ADR Act has supplementary legislation, the Order for Enforcement of the Act on Promotion of Use of Alternative Dispute Resolution (Cabinet Order No. 186 of 2006) and the Ordinance for Enforcement of the Act on Promotion of Use of Alternative Dispute Resolution

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<sup>131</sup> The Japanese translation is 暴力団員による不当な行為の防止等に関する法律.

<sup>132</sup> Mediation in such administrative ADR started to deal mainly with consumer complaints, labour and housing and health issues, including nuclear damage compensation (Hayashi, 2011: 4; Ministry of Education, Cultural, Sports, Science and Technology, 2018; Ochi, 2005: 2) and also offered ombudsman services (Minami, 2006: 194-227). Private authorised ADR organisations, which offer mediation to deal with issues related to intellectual properties, traffic accidents, financial products, insurance and manufactured products (Hayashi, 2011: 4; Ochi, 2005: 2), work together with the Japanese Federation of Bar Associations, or those who are professionally qualified in their area. For instance, automobile vehicle insurance companies offer financial aid to the Japanese Centre for Settlement of Traffic Accident Disputes, which undertakes mediation for traffic accident issues, and the Centre itself is staffed by attorneys and professors in law (Japan Centre for Settlement of Traffic Accident Disputes, 2005).

<sup>133</sup> For example, Japan's earliest founders of restorative justice visited the USA to take part in Mark Umbreit's mediation training sessions from around 2001 (Ishihara, 2017a).

(Ministry of Justice Ordinance No. 52 of 2006).<sup>134</sup> Article 1 of the Act sets out its purpose: to offer a basic ADR provision for its citizens and establish the responsibilities of the government and other relevant entities, at the same time as enforcing a certification system of ADR providers under its special rules. The Minister of Justice announced that the Act would enable its users to choose an ‘appropriate’ method from alternative dispute resolution including litigation (HoR, 2004d: 4).<sup>135</sup> The overall aim of mediators being certified under the Act was to provide reliable information on mediation providers to its users and prevent ‘malicious’ organisations, such as members of the organised crime groups, from applying to become certified mediators, so that a user can choose the best mediator for them (HoR, 2004d: 4).

The Act defines ‘dispute resolution providers’, which include mediators, as “persons who arrange settlement through private dispute resolution procedures” under Article 2(iii). ‘Private dispute resolution procedures’ is defined under Article 2(i) as “alternative dispute resolution procedures by which a private business, at the request of both parties to a civil dispute for which settlement is sought, arranges settlement under a contract with the parties to the dispute, excluding alternative dispute resolution carried out by persons designated by law as dispute resolution services under the law, in accordance with a Cabinet Order”. In that narrow field of the mediator profession, which had predominantly been ‘monopolised’ by lawyers albeit unintentionally yet perhaps desirably, the ADR Act 2004 certainly broadened the entry for non-lawyers to mediate in disputes in Japan and at the same time, safeguarded the users.

The ADR Act 2004 states that private mediation organisations must satisfy the conditions of its certification schemes under Article 5. Article 7 of the Act excludes certain categories of people from becoming certified mediators because of the recommendations published by the Justice System Reform Council (Justice System Reform Council, 2001).<sup>136</sup> The Japanese

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<sup>134</sup> The Japanese translation for the former is 裁判外紛争解決手続の利用の促進に関する法律施行令, and the latter is 裁判外紛争解決手続の利用の促進に関する法律施行規則. The contents decided under the ADR Act 2004 remain untouched by both supplementary legislations.

<sup>135</sup> This concurs with what has been proposed in the ADR movements in other countries, however (Fuller, 1971; Goldberg et al., 2003: 6; Menkel-Meadow, 2013: 423; Moscati, 2015: 5).

<sup>136</sup> Chapter II, Part 1-8 of the Recommendation states that, with some exception of some organisations offering ADR services, the mechanisms offering such services, including mediation, are not yet fully functioning. In order to offer more user-friendly services, the reinforcement and vitalisation of mediation services is necessary. Such improvements of mediation services include enacting legislation which both promotes the use of mediation and strengthens coordination with adjudication procedures. In particular, it states that “[i]n order to utilize non-legal professional experts, such as those

legislature admits that this disqualification or certification system is a rare scheme compared to other countries (HoC, 2004b: 20; HoR, 2004a: 11; HoR, 2004b: 7).

The trainings and resources, including mediation models available to trainee mediators in Japan, do not display significant differences from those used, for example, in the USA, where such certification schemes through federal legislation are still not imposed (see for instance, Doshisha Law School, 2016; Hashimoto and Matsuura, 2007:399; Irie, 2010; Japan Mediation Centre, 2007; Wada, Ando, and Tanaka, 2015; Ishihara, 2017a).<sup>137</sup> When debating the then draft of the ADR Act 2004, Japan's legislature showed how the development of mediation in its justice system recognised the importance of maintaining access to justice by providing alternative dispute resolution methods including mediation, without government intervention in the private autonomy (HoC, 2004b; 2004c; 2004d; HoR, 2004b; 2004d).

As mentioned earlier, Article 7 of the Act imposes restrictions on who can be ADR service providers through a national certification system. Japan has taken a cautious approach towards providing mediation service in the private sector because of its recognition of the private autonomy of its citizens. However, it also knows that there has been a significant involvement of *Yakuza*. The government has as a result shown great reluctance to remove prerequisites for certified mediators to possess 'legal and professional knowledge' in certain areas of dispute. Mediation in Japan's justice system is one of "legal procedures for settling disputes [...] while respecting the voluntary efforts of the parties [...] achieving prompt dispute resolution based on specialized expertise and in accordance with the actual facts of the dispute" (Article 3, ADR Act 2004).<sup>138</sup>

On the basis that Japan has introduced the certification system as a legislative requirement for mediators, a mediator is viewed as someone who attends the negotiation between

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from fields adjoining law (so-called quasi-legal professionals), in ADR, study must be given to each such profession individually, taking into account each profession's actual situation, and the status of such non-legal professionals should be legally defined as part of the revision of Article 72 of the [Attorney Act (Act No. 205 of 1949)]. That article should at least clarify the contents of restrictions in an appropriate way, including the relationship with persons engaged in corporate legal work, from the standpoint of responding to changes in the contents of services provided by professionals in fields adjoining law and the diversification of company forms, in order to ensure the predictability of the scope and modes of activities that are subject to restrictions" (Justice System Reform Council, 2001).

<sup>137</sup> A similar case in Massachusetts, USA, was mentioned in Chapter 3.

<sup>138</sup> In fact, Article 6(i) and (v) of the ADR Act 2004 respectively state that such a service provider "defines with his or her specialised expertise the scope of disputes for which settlement will be arranged" and, if such a person is not a qualified lawyer, "an attorney is available for consultation when specialised knowledge on the interpretation and application of laws and regulations required in the process of providing private dispute resolution".

disputing parties, although only upon a disputant's request. When the mediation, which is viewed as such, is chosen by disputing parties prior to or during litigation, the mediation market unquestionably expects, or may also be expected by the disputants themselves, to standardise its service 'quality'. The Minister of Justice announced that the certification would guarantee the mediators' quality standards to a certain degree without government intervention (HoR, 2004d, 2).<sup>139</sup>

However, the ADR Act 2004 and its supplementary laws provide no reasons why those who are listed under Article 7 should be disqualified from obtaining the certification, other than to safeguard its users (HoC, 2004b: 27; HoR, 2004a: 9; HoR, 2004b: 2 and 8; HoR, 2004d: 4, Ministry of Justice, 2013: 6-7, 14-15). The Ministry of Justice only provides an oversimplified explanation on its disqualification under Article 7 on its website (Ministry of Justice, 2017a): "those who falls under Article 7 cannot be dispute resolution providers. For instance, those private organisations whose practice are traced to organised crime groups such as *Boryokudan*." One of its intended aims was clearly to prevent members of organised crime groups from undertaking a mediator role. In the same year that the ADR Act 2004 came into force, local governments of each municipality also began to implement local laws of the Organized Crime Exclusion Ordinances and all prefectures had the law in place by 2011.<sup>140</sup>

While the government seems to have successfully excluded members of organised crime groups, allowing the disputants to maximise their autonomy, and maintained access to legal advice, thereby preventing unfair outcomes by using private mediation under the ADR Act 2004, the realisation of who mediates matters in Japan has nothing to do with any of the eight precepts generated in Chapter 3.

#### **5.2.4 Current situation of mediation available in Japan**

There are no signs of any terms equivalent to the English terms spiritual or spirituality being used in the development of mediation in Japan to date, except on two occasions: one in

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<sup>139</sup> Mareschal (2005) may partially justify why the ADR Act 2004 does not contain any directions on how to conduct mediation sessions and Article 7 of the Act only excludes certain categories of people from becoming mediators. While relationship hostility negatively correlates to the effectiveness of mediation, mediators' tactics are not a relevant factor (Mareschal, 2005). Mediators' skills, characteristics, and both personal and professional qualities, and disputant clients' collaborative orientations, which can effectively be maintained by the mediator with those professional and personal traits, were found to be more influential on the effectiveness (Mareschal, 2005). In this test, a member of the organised crime group may cultivate a 'hostile' relationship with either or both parties participating in mediation which negatively influences resolution.

<sup>140</sup> The Japanese translation of this Ordinances is 暴力団排除条例.



2007, when Fujioka's (2007) translation of Umbreit (2001) was published and the other, in 2012 when Ishihara held her public lecture (as cited in Kumamoto Jinzai Shinbun, 2012).<sup>141</sup> This section articulates whether any of those precepts have been referred to in Japan's mediation context by analysing the status quo of mediation in Japan.

There are currently three types of mediators in Japan: those who undertake judicial, administrative and private mediation.<sup>142</sup> Judicial and administrative mediation do not have anything to do with religions or religious groups because of the nature of their work. Those registered with the Ministry of Justice under Article 1 and listed on its website as certified mediation providers undertake private mediation. According to the website (Ministry of Justice, 2019),<sup>143</sup> 166 organisations have been certified, of which six of them have now stopped offering the service and one has been dissolved. Among 159 bodies, only two are working as individual mediators without belonging to any organisations. None of those 159 organisations is a religious or religion-related group.

Other people can also privately mediate without being legally authorised to do so. When involved in disputes which could become litigious at a later stage, Japanese people seek legal help from someone other than lawyers, those who Rokumoto (1986:41) calls 'non-lawyer specialists.' The characteristics of the non-lawyer specialists are that they tend to be individuals with whom the disputant already has a personal relationship, such as family members, friends, acquaintances, colleagues, and so on, and who possesses professional knowledge and experience in the disputed area and is not necessarily qualified as a lawyer. The non-lawyer specialists need to be capable negotiators rather than authoritative decision makers in relation to the nature of disputes brought to them (Rokumoto, 1986:251).

If Rokumoto's views alone are applied, members of *Yakuza*, who may use actual violence, threats, or fear, could be viewed as capable of handling dispute situations in Japan. Indeed, members of *Yakuza* appear to continue to intervene in disputes (Hill, 2003: 92-136), although their ways of settling issues does not favour any disputants except for those willing to settle their issues unfairly in their favour by using the members as mediators, albeit unprofessional ones. This is one of the reasons why the Civil Code contains Article 96, which

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<sup>141</sup> These were already discussed in Chapter 2.

<sup>142</sup> The certified private mediators are those who fall under Article 1 of the ADR Act 2004.

<sup>143</sup> The website is available at <http://www.moj.go.jp/KANBOU/ADR/jigyousya/ninsyou-index.html>

explicitly overturns any legal agreements reached as a result of duress and fraud. Furthermore, those informally selected uncertified mediators cannot receive any monetary awards or compensation under Article 72 of the Attorney Act (Act No. 205 of 1949). The exceptions to this are where they are lawyers or certified mediators working in their professional capacity or the mediators being paid to mediate as an employee by hospitals or schools (Science Council of Japan, 2008: 14; Ikejima, 2010: 39-42).

Article 72 of the Attorney Act, which came into force soon after Japan established the current adjudication system in the 1940s, prohibits ‘legal services’ by non-attorneys unless the contrary was enforced by other laws. The wording of the Article is as follow [*emphasises added by the author of the present thesis*]:

Article 72 No person other than an attorney or a Legal Professional Corporation may, *for the purpose of obtaining compensation*, engage in the business of providing legal advice or representation, handling arbitration matters, *aiding in conciliation*, or providing other legal services in connection with any lawsuits, non-contentious cases, or objections, requesting for re-examination, appeals and other petitions against administrative agencies, etc., or other general legal services, or *acting as an intermediary in such matters*; provided, however, that the foregoing shall not apply if otherwise specified in this Act or other laws.<sup>144</sup>

Through this Article, Japan has long prohibited ‘an intermediary’, including mediators, from receiving money or monetary reward, in return for providing disputants with a mediation service as their business. Those disputes can be resolved by court. Mediation held outside of the judiciary does not fall into this ‘mediation’ category if the interveners do not receive money or monetary reward, and their role as a mediator is voluntary and not a business activity.<sup>145</sup>

The Supreme Court of Japan further explains its understanding of Article 72 in a judgment made on 14<sup>th</sup> July 1972,<sup>146</sup> stating that the court was concerned by people not being subject to any disciplinary rules and intervening in other people’s legal issues for their own material benefit. Such interventions could not be left outside legislation because of their potential to undermine the interests of those involved and other relevant parties, interrupt fair and harmonious legal affairs, and so impair law and order.

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<sup>144</sup> The translation is made available by the Ministry of Justice (2018).

<sup>145</sup> Mediatory or intervening activities to resolve disputes by the organised crime groups including *Yakuza* are hence prohibited by this Article because their actions have often and traditionally been in exchange for money or monetary value (National Police Agency, 2005: Chapter 2, section2-2-2).

<sup>146</sup> The matter number: 昭和 44(あ)1124.

What Article 72 intended to achieve was, as interpreted by the Supreme Court, to exclude any parties other than legal professionals from intervening in litigious matters. Violation of this Article is subject to criminal liability under Article 77(iii) of the Attorney Act. In private mediation, which functions independently of a national authority, many cooperate with the Japan Federation of Bar Associations (HoR, 2004b: 20-21) due to Article 72, although certified mediators under the ADR Act 2004 are exempt and allowed to work independently.<sup>147</sup>

Demand for mediation in the country was motivated by a need to decrease costs at a time of existing litigation procedure and increasing access to justice (Hearn, 2005/1904; Miyatake, 2017).<sup>148</sup> Because the process of resolving conflict has been an alternative to court procedure (HoR, 2004d: 4), many disputing parties wish to choose their mediator from a pool of trained and skilled mediators who are certified accordingly, while others prefer choosing their mediators more informally and distinguish intentionally the process from certified mediation by paying no monetary compensation to the 'mediator'.

Article 696 of the Civil Code (Act No. 9 of 1896 as amended Act No. 78 of 2006),<sup>149</sup> Effects of Settlements, states that agreed resolution of disputes, regardless of the resolution methods used and whether or not a mediator is involved, cannot be overturned once agreed, in view of legal enforceability, except where such resolution is reached by mistake, fraud or duress. Article 95 of the Civil Code states that, "[m]anifestation of intention has no effect when there is a mistake in any element of the juristic act in question; provided, however, that the person who made the manifestation of intention may not assert such nullity by himself/herself if he/she was grossly negligent"; Article 96(1) reads as, "[m]anifestation of intention which is induced by any fraud or duress may be rescind" (Ministry of Justice, 2009).

Due to these Articles, dispute resolution practice, including private mediation under the ADR Act 2004, is expected to be within the practice of law and the ADR Act 2004 does not grant enforceability to settlements reached through mediation, even though it is safeguarded by

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<sup>147</sup> The ADR Act also inserted Article 6(v) which ensures access to legal advice.

<sup>148</sup> This is in a similar way to the Anglo-American world (see further, Roberts and Palmer, 2005: 315-331).

<sup>149</sup> The Japanese translation is 民法. The actual wording of the article reads as "In cases where it is admitted at settlement that one of the parties has the rights that are the subject of the dispute, or that the other party did not have the rights, if conclusive evidence is obtained to the effect that the first party did not have the rights in the past, or that the other party did have the rights, the rights are regarded as either transferred to the first party or extinguished at settlement" (Ministry of Justice, 2009).

Article 96 of the Code. The ADR Act protects mediation users from ‘unfair’ settlements from a legal point of view, which any mediation process may face and risk, due to its voluntary nature. While mediation is recognised as a means of alternative dispute resolution to litigation, the ADR Act 2004 appears to take indeed a rare approach to certify and disqualify certain categories of people, as discussed in the previous subsection.

Safeguarding its users from potential unprofessional mediators seems to have been prioritised in Japan due to its unique social situation, as discussed in the previous subsections.<sup>150</sup> By enforcing the ADR Act 2004, the Japanese government seems to have carried out a balancing exercise between maintaining the autonomy of disputants and safeguarding those disputants from potential harm when pursuing their settlements through private mediation. As stated earlier, even judges in Japan take a flexible approach on a case by case basis when deciding what would achieve justice for those involved. The ADR Act 2004 seems only to have reiterated the pre-existing rules.

Thus, the reason why the notion of who mediates matters is clearly highlighted by the ADR Act 2004, is not because people consider it as ‘spiritual’ but because of Japan’s long-standing social problems. However, the status quo created in Japan regarding its mediation practice does indicate some recognition of mediation needing to be a safe place. By introducing the notion of using spirituality to the Japanese-speaking mediation context, such recognition might have been more concrete provided those translations convey the meaning intended.

In addition, the development of mediation in the country has had very minor or almost no intersection with religions and this remains the case today. Because mediation practice has not been traditionally conducted by religious leaders or used within religious communities, introducing the notion of spirituality in the Japanese-speaking mediation context seems to generate more controversy than benefits, despite some mediators such as Wolf (2017) associating the notion of spirituality in mediation with that of maintaining harmony in the relationship. The importance of *wa* could link to his idea if and when it has been introduced

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<sup>150</sup> Any members of the organised crime groups now must not intervene any disputes under Articles 7 to 19 of the Act to Prevent Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991). Even in mediation held extrajudicially, the users of uncertified mediation without awarding their mediators with compensation are also safeguarded from members of such organised crime groups.

to Japan by translation. However, in the context of Japanese-speaking mediation, spirituality has thus far not linked to *wa* so explicitly.

Mediators are defined in English as a third party who can facilitate “transition, conciliation, and abandonment of absolute contrast” (Simmel, 1950: 145),<sup>151</sup> and there are certain conditions for mediators to exist (Gulliver, 1979). The three conditions for any context are; “[f]irst, does the relevant community, through its leaders or otherwise, insist that disputants are not entirely free agents and therefore impose mediation?; [s]econd, do the disputants want third-party intervention because of its expected advantages to them?; and [t]hird, are the disputant willing to recognize and entertain the legitimate interests of a third party in their dispute and its outcome?” (Gulliver, 1979: 231). If all three questions are answered with “no”, mediators are most unlikely to appear (Gulliver, 1979: 231). The review in this section has discovered that the latter two conditions are easily met by the Japanese-speaking mediation, and the first one is also satisfied where judicial and administrative mediations are used.

Even with the restriction imposed by Article 72 of the Attorney Act, Gulliver’s three conditions are fulfilled. Mediators in Japan hence do not exhibit any uniqueness with respect of their appearance to English-speaking mediators. If so, then why would the notion expressed by the terms spiritual or spirituality have not appeared until 2007 when it was translated from English recourses?

The development of mediation practice in Japan has thus shown no indication of using the various terms that exist in Japanese that evoke the English terms spiritual or spirituality. As there are no apparent differences between mediators in English and Japanese-speaking societies, the introduction of the notion of spirituality in the context of mediation as well as through the training lectures delivered by Mark S. Umbreit were intended to improve Japan’s mediation practice and contribute to its development. As has been argued in the

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<sup>151</sup> Such a third party was once said that he or she needed to maintain non-partisanship toward disputant parties and their issues by setting their subjective interests in a “purely objective mechanism” (Simmel, 1950: 150 and see mainly Chapter 4). However, a notion of non-partisanship or impartiality is now certainly subject to both academic and professional debates as difficult to assure due to mediators’ own set of ideas (Gulliver, 1979: 217; Roberts and Palmer, 2005: 154)

previous section, the only one of the eight precepts described in Chapter 3 that is referred to in the Japanese-speaking mediation context is the importance of mediation being conducted in a safe space. Because of their unfamiliarity with the notion yet recognition of the importance of Umbreit's (2001) work, Fujioka (2007) and Ishihara (Kumamoto Jinzai Shinbun, 2012) decided to transliterate those terms to introduce the notion described by the terms spiritual or spirituality to the context of mediation in Japan.

Transliterated spirituality, which were written in *katakana* letters, conveys something positive, advanced, fashionable and 'foreign' by eradicating the links to the supernatural (Horie, 2009 and 2019).<sup>152</sup> However, Japan ADR Association's recommendation submitted in 2018 includes that there has been no significant increase in the use of private mediation since the ADR Act 2004 came into force (Japan ADR Association, 2018). What are the underlying attitudes of such an unpopularity of mediation in Japan?

The next section, thus, analyses the expectations of those who turn to mediation in Japan, in order to understand the reasons behind this lack of growth followed by a case study.

### 5.3 What is expected in Japan's mediation?

Mediation is often described as meeting Japan's cultural expectations and preferences for non-litigious resolutions (Haley, 1979). However, considerable time has passed since the promulgation of the Seventeen-Article Constitution in 604, although the strong intention of preserving harmony in the community has been maintained through the development of alternative methods to litigation from the establishment of *naisai* to the recent enforcement of the ADR Act 2004. Japanese people have been described as preferring to use a *naisai* style justice system, which can be mediation in today's Japan because the Japanese are familiar with a Buddhism peaceful ideology, which influenced Prince Shōtoku's constitution, as well as Shintoism, which was the main religion in Japan by that time (Tanaka, 2000: 105).<sup>153</sup>

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<sup>152</sup> Fujioka (2007) also applied *seishin*. The detailed analysis over the suitability of the applied translations will be presented in the next chapter, after the examination of the notion of spirituality in the Japanese-speaking mediation context.

<sup>153</sup> As mentioned in the earlier section, the Japanese people have long valued the concept of *wa* since 604 (Baum, 2013: 1014; Callister and Wall, 1997:312; Uchtmann, Blessen, and Maloney, 1987: 351; Tanaka, 2000, 105 and 107; Upham, 1976: 594, and 616-617; Yoshida, 2003). The value still exists in modern Japan (Tanaka, 2000; Tanaka, 2006).

Considering the fact that something similar to mediation regardless of the name of the method has always been available in Japan since at least 604, when there was no litigation available yet, have they still been under such religious influences for preferring mediatory measures to litigation? However, the fact that the increase of the use of private mediation under the ADR Act 2004 has been very subtle, should not be ignored (Japan ADR Association, 2018). The following sections thus discuss what people who turn to mediation expect apart from the known advantages of using ADR rather than litigation, which are that ADR is cheaper and less time-consuming.<sup>154</sup> The discussion in this section concludes by assessing whether or not these expectations include mediation being ‘spiritual’ in the ways that are expressed by the eight precepts identified in Chapter 3.

The first traditional view is one that is discussed very frequently by scholars whereas the second perspective is proposed by more contemporary researchers since the enforcement of the ADR Act 2004.

### 5.3.1 Traditional view: to keep a harmonious relationship

Upham (1976: 586 and 589) analysed the Japanese approach to litigation mechanisms and techniques and their implications by revealing the so-called ‘Big Four’ pollution injury cases in the 1970s.<sup>155</sup> According to Upham (1976), the victims resisted or were reluctant to use litigation, and some of those victims thus settled for significantly less compensation because they chose to use mediation, which Upham suggests is more like arbitration.

This sense of *wa* is strongly observed in the unique Japanese concepts of *giri* and *sekentei* (Yoshida, 2003; Tanaka, 2000: 107).<sup>156</sup> *Giri* is described as an underlying concept for the *Tokugawa* shogunate’s societal rules (Uchtmann, Blesser, and Maloney, 1987: 350). While *giri* is said to have no English equivalent word (Benedict, 1946: 133; Yoshida, 2003), it refers to ‘social obligation’, which correlates to gratitude or appreciation of kindness (Lebra, 1976: 46, 91-95). Examples of *giri* include, “obstinacy, consideration for others, moral

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<sup>154</sup> The demand for mediation in contemporary Japan has been driven by the need to decrease costs and to avoid the lengthy litigation procedure, thereby increasing access to justice as discussed in 5.2 above.

<sup>155</sup> “These cases are commonly known as the Toyama *Itai Itai* Case (Toyama District Court, decided June 20, 1971; appeal decided by the Kanazawa Branch of the Nagoya High Court, August 9, 1972)[...]; the Niigata Minamata Disease Case (Niigata District Court, Sept. 29, 1971)[...]; the Yokkaichi Case (Tsu District Court, Yokkaichi Branch, July 24, 1972)[...]; and the Kumamoto Minamata Disease Case (Kumamoto District Court, March 10, 1973)[...]. All but *Yokkaichi*, an air pollution case, concerned the pollution of natural water systems by chemical effluence from the defendant companies. The *Toyama* case concerned poisoning by cadmium; the other two involved mercury poisoning.” (Upham, 1976: 479).

<sup>156</sup> The Japanese translation of *giri* is 義理, and *sekentei* is 世間体.

indebtedness, or community obligation, and so on” (Yoshida, 2003). Normally, *giri* is understood to appear as an obstruction to litigation (Rokumoto, 1986: 228-229). However, as seen in Upham’s (1976) analysis, the concept of *giri* may also help in facilitating a group litigation.

In a similar way, the Japanese are said to retain a strong sense of *sekentei*, which Yoshida (2003) translates as ‘social awareness’. In the context of a close-knit community, *sekentei* requires, if not demands, people to be excessively conscious about how they appear, compared to other people in the community. Differing from the rest of the community is an individual embarrassment, and this has been identified as a ‘shame culture’ (Benedict, 1946: see mainly, 222-227). The Japanese feel shame when undermining or denigrating their status on two conditions (Lebra, 1976: 79-80). The first is one’s status being recognised by others, and the second is the unsuitable behaviour of one’s status being exposed to other people. Taking care of one’s *sekentei* protects the individual from embarrassment in both these situations. Describing a whole nation composed of various cultural minorities as a ‘shame culture’ is debatable since Benedict (1946) only carried out her fieldwork among Japanese immigrants in the USA (Lewis, 1997: 68). However, other scholars also echo that the tendency for people in Japan to be influenced by either guilt or shame, or both of these, in their daily lives (Lewis, 2018: 207).

Where such a strong sense of harmony, or perhaps uniformity, exists in a community, becoming a litigant in a lawsuit means that the litigant does not appreciate other people’s indebtedness in the community and that they are different from others in the community. The litigant has only two options, to be seen as a complainer or to be seen as in harmony with the community. Hence, people decide to join the litigation or not to, in order to be in harmony with the rest of their community members, regardless of their own wishes.

The idea that Japanese people may be traditionally ‘reluctant to sue’ has been around since Kawashima proposed this argument in 1963. The tendency has been discussed by a number of scholars who have identified political, institutional, cultural, economic or circumstantial reasons in such attitudes towards litigation.<sup>157</sup> However, Murayama (2014: 203) has argued

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<sup>157</sup>For example, Ginsburg and Hoetker (2006), Haley (1979), Kawashima (1963), Murayama (2014), Ramseyer (1988), and Tanase (1990)



that this attitude toward litigation has changed since the 1960s and that now, people do not hesitate to initiate lawsuits, as long as the immediate circumstances of the prospective litigant permit such an action.

Haley (1979) has argued that it is Japan's legal system itself that prevents its citizens from bringing legal actions before the courts. However, this may not be a dominant reason and is a little too narrow, although aforementioned Kawashima's (1963) view does not entirely reflect the Japanese litigation culture, either (Murayama, 2017). What Murayama (2017) discovered based on his empirical research was that, "there is a cheaper and sometimes compulsory *chōtei* system in parallel to its litigation system, and also there is very narrow access to appointing lawyers" (Murayama, 2017: 304-305). Public legal advice bureaus, which are run by either the public authority or non-profit making organisations, offer good access to legal advice for the Japanese (Murayama, 2017: 306-207). Access to courts or involvements in lawsuits, both fewer or lesser in numbers, do not influence or change their legal consciousness, especially their awareness of their legal rights and responsibilities (Muramatsu, 2010).

As Haley (1979) himself has acknowledged, Japan's social organisations and values are more supportive of informal settlements through methods such as mediation and the Japanese may not necessarily pursue litigation when they can achieve the same result using alternative methods. Furthermore, when no agreement is reached through alternative methods such as *chōtei* and mediation, they can always pursue their claims in court.

The underlying cultural factors that have been discussed so far such as weighing *wa*, *giri*, or *sekentei* within the community, exist in the, "immediate circumstances that a person faces at the time of experiencing a problem" in Japan where shame is heavily emphasized (Benedict, 1946: 286-289; Murayama, 2014: 196-200, and 203) as is guilt (Lewis, 2018; 2013: 205-208). Murayama's (2017: 294) empirical data suggests that the more considerate the prospective litigants are towards the influence on the relationship with the opponent because of bringing a legal action, the less the litigation will be. The data also shows that those who have lived in the same area longer and earn more, and those who consider harmony with others more important than insisting on individual rights, are less likely to face legal disputes (Murayama, 2017: 284 and 287).

Another advantage of mediation is that it has maintained *wa* in the Japanese community where disputes occur and because it is confidential, the involved disputants do not lose face and their social status is not undermined by exposing their issues in public (Callister and Wall, 1997: 314). There will be a solution for disputes, “when there is congruence between individuals and their community, with shared commitment to common values” (Auerbach, 1983: 16). That is because, “the Japanese ‘group ethic’ means that greater emphasis is placed on honouring obligations to others within one’s own group than on helping those who are outside one’s group” (Lewis, 2013: 210-211).

If individuals in the same community were to appear congruent to their community, there would be fewer conflicts that require either legal or alternative solutions such as mediation. When conflicts do arise within communities, how the conflict is resolved reveals the ‘most basic values’ of that community (Auerbach, 1983: 3), and the method or willingness of preserving the community reflects on how to solve the conflicts that occur within it (Auerbach, 1983: 4). Furthermore, the mediator is often a communication initiator between the disputants who is motivated to “do good for both parties” (Lebra, 1976: 122). In this way, the mediator cannot undertake their task unless the disputants agree that they become mediator. Otherwise, it would be considered as “*osekkai* (“meddlesomeness”)” (Lebra, 1976: 41).<sup>158</sup> Mediation is situated on a fine line between empathy, or the ability and willingness to help other people by understanding others’ feelings in the situation, and being seen as meddling, which is “the antithesis of empathetic understanding” (Lebra, 1976: 39 and 41).

By selecting a mediator in this manner, if the involvement of ‘mediation’ was exposed to other members of the community or the mediation failed, neither disputant involved in the mediation loses face because the communication was initiated by the ‘mediator’ whose communication skills are then considered not appropriate or good enough to solve the issue. However, the mediator is not embarrassed by having failed to mediate because they are seen as having acted from his *giri* for those disputants and “attaining harmony is a noble one” (Callister and Wall, 1997: 314). The community’s other residents may also recommend that disputing parties use such a ‘mediator’, who does not necessarily require systematic training or certification and can be chosen based on the religious, political, moral or any

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<sup>158</sup> The Japanese translation is お節介.

other personal preferences of those who require mediation if they are acting privately outside of the legal system, on an *ad hoc* basis.

The community would rather honour this type of half-voluntary but half-active involvement of a ‘mediator’ as this preserves *wa* in that community. In one view, the more close-knit the community, the less litigatory demands exist within the community (Auerbach, 1983: 19); on the other hand, they can be more litigious *because* of community ties (Tanaka, 2000: 112 and 132-133). For example, Upham (1976) reported that some of the victims of the Big Four Pollution civil litigation cases in Japan decided whether to join the litigation based on their desire to preserve a sense of community. If others join, they join as well; if others do not, they then do not join. Being in a unison with other members of the community allows to preserve the community harmony.

In reporting his private survey conducted in Japan, Lewis (2018: 300-304) analysed that the Japanese seem to have feelings of shame and guilt concurrently yet independently. In other words, the Japanese feel a sense of shame and guilt even when others did not know about the actions that caused these feelings (Lewis, 2018: 301 and 303).<sup>159</sup> There seems to be a ‘new’ morality among the Japanese people,<sup>160</sup> but it is deeply embedded in their daily life practice as, “the personal, inmost element of man, that element which makes him conscious of sin” (Lewis, 2018: 303-304 by citing Babase, 1967: 73). Based on the analysis in this section, the Japanese seem to prefer following what other people do in their community.

In the context of this unique value, what manifests one’s justice may depend on the circumstances, including the cultural context (MacIntyre, 2007/1981 and 2001; Roberts and Palmer, 2005: 10-17). It may be more appropriate to refer to a plurality of justices because there is more than one rationality (MacIntyre, 2001/1988: 9). Even in contemporary Japan, the complex nature of what is moral or not because of the emphasis on shame and guilt, based on *wa*, *giri*, and *sekentei*, still influence social attitudes. However, the resources used to layout such attitudes of Japanese people are admittedly outdated. Whether this traditional view still suffices in modern Japan will be discussed in the case study at 5.3.3 below.

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<sup>159</sup> McKay (2001: 59 as cited in Lewis, 2018: 303) also confirmed Lewis’s (2018) results.

<sup>160</sup> According to Jones (2016: 289), morality is concerned with how we deal with other people.

Settling disputes within horizontal interpersonal relationships such as within a relatively close group or local community may be preferred to using mediation or *chōtei* because involving authoritative figures such as certified mediators or *chōtei* personnel through registration means that their issues would be recorded semi-permanently (Rokumoto, 1986: 209; Tanaka, 2000: 133). In addition, individuals may feel that as informal third-party interveners offer their time and efforts freely, they may resolve issues more quickly, as well there being no financial loss because informal mediators cannot receive any monetary compensation for their services under Article 72 of the Attorney Act. While community spirit in Japan appears to be humanistic and beautiful, although slightly over-dependent on ‘others’, there seem to be no clear resemblances to the eight precepts of spirituality in their desires and decisions, except for a strong urge to make mediation safe.

### **5.3.2 Contemporary view: avoiding unfair decisions**

Since the enforcement of the ADR Act 2004, there have been many articles published in the field, some of which have raised concerns about the quality of mediation, especially in the private sector, now made widely available by the Act. According to Yamada’s (2009) analysis, Japan’s judicial and administrative ADR methods, including their mediation and *chōtei*, are trusted by the users because of the professionalism that the intervening third party brings to the table. By contrast, the quality of private mediation under the ADR Act 2004 is seen as inferior to the other two types of mediation, mainly due to a perceived lack of training. The analysis concludes that, although a preference for mediation over litigation is stronger due to the desire of preserving harmony and the enforced certification by the ADR Act 2004 is now available, only the procedural fairness such as access to mediation is guaranteed under the Act but not the practice quality of private, certified mediators due to a lack of training.<sup>161</sup>

This situation is not dissimilar to the certification scheme in place in Massachusetts which did not consider the training process as a vital part.<sup>162</sup> In modern Japan, people’s strong demands of seeking standardised service quality developed through training and practical experience, rather than mere certification (Miyatake, 2017, Yamada, 2009), are due to the fact that its third-party dispute intervention has been predominantly offered by law professionals. Yamada (2009) suggests that access to the necessary legal advice appears to

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<sup>161</sup> Hence, the Article 6(v) of the ADR Act 2004 as discussed in 5.2.3 above.

<sup>162</sup> As discussed in Chapter 3.

be vital for prospective mediation users in that country, which is another reason why they may still prefer using litigation.

Both Yamada (2009) and Miyatake (2017) point out that there is not enough emphasis on a mediator's duty of confidentiality in both the private sector and judiciary. Miyatake (2017) argues that in *chōtei*, this is due to having to balance the disputants' confidentiality against public interest, and that private mediation under the ADR Act 2004 inherited this tendency. Both authors criticise the certified, private mediation under the ADR Act 2004 for failing to gain enough trust from the public due to those reasons. The users of mediation predominantly prefer to be a part of a legal practice which is regulated for the professional standards.

There are also historical reasons why the mediation under the ADR Act 2004 has attracted so few users, according to Miyatake (2017). In her extensive research into the history of using *naisai*, *kankai* and *chōtei* in pre-World War II Japan, she found that throughout history up to the World War II, all three had been used by the government as a tool of authority to suppress people and abuse their human rights. Although this was only up to the period before the War, Miyatake (2017) argues that this has severely scarred the people of Japan, including legal scholars and practitioners. This is why, she suggests, there is a reluctance to use *chōtei* or any other ADR methods, including private mediation, viewing these as inferior to litigation (Miyatake, 2017). In other words, in the eyes of the Japanese people, the ADR and litigation are somewhat considered to be in the same category of *receiving* resolution although the purpose of mediation differs from litigation as for *achieving* settlements. Based on these findings, providing mediation training as part of certification is recommended to assure the service quality (Miyatake, 2017).<sup>163</sup>

The traditional view of the people of Japan being generally non-litigiousness has long been accepted in academic discussions.<sup>164</sup> The perspectives of Yamada (2009) and Miyatake (2017) are relatively new. However, so far, they do not appear to contradict this accepted wisdom. What is controversial is Miyatake's (2017) description of the nature of *chōtei* as

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<sup>163</sup> Miyatake's (2017) research was approved and valued by the research committee of Hitotsubashi University, Tokyo, Japan, for raising an extremely new and convincing point which had not been made by any scholars in the *chōtei* research field before (Hitotsubashi University, 2017).

<sup>164</sup> As shown in the previous subsection.

heteronomous. In her analysis, the Japanese do not have enough self-autonomy when they are involved in disputes. In other words, they use litigation to seek someone who will settle their disputes.

Her unique analysis of Japan's mediation history, including *chōtei*, provides the background to what the present thesis has categorised as the traditional view in the previous subsection. Despite societal expectations and socially embedded, unspoken rules to respect *wa*, *giri*, and *sekentei*, their non-litigious attitudes are as a result of their accumulated fear of being treated unfairly in mediation based on such a history (Miyatake, 2017). This vicious cycle of third-party dispute intervention being heteronomous and its users lacking self-autonomy, negatively influences the development of mediation, both *chōtei* and private mediation, as well as the frequencies of using the service in Japan.

What this section has discussed so far is the theoretical expectations of people in Japan who seek mediation. To better illustrate these two perspectives, the next section presents a case study of neighbour dispute in modern Japan.

### 5.3.3 Case study to illustrate those two views

In order to further illustrate the current mediation provision in Japan in the context of the two views discussed in the previous two sections, this section focuses on a neighbour dispute in the country as a case study: the neighbourhood association and the communities' garbage collection points.

In Japan, there are neighbourhood associations, community-based voluntary organisations which are often called '*chōnaikai*' or '*jichikai*' (the 'Associations').<sup>165</sup> This community-based organisation is not a branch or part of any municipal bodies such as local government or council offices and has nothing to do with administrative bodies of the country's government, either. Under legislation called *Chihōjichi Hō* (Act No. 67 of 1947),<sup>166</sup> the associations are not defined, although their rights and duties are under Article 206(2). An association in a community is normally run by the residents of the area, and each household pays a membership fee. While there are no national rules in place, local rules are likely to include

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<sup>165</sup> The Japanese translations of '*chōnaikai*' and '*jichikai*' are respectively 町内会 and 自治会.

<sup>166</sup> This legislation is not translated officially into English language, and its English translation can be the 'Local Autonomy Act'. The Japanese translation of the Act, *Chihōjichi Hō*, is 地方自治法.

assigning each member resident to an unpaid chore such as cleaning the communal collection points of house-hold waste. Waste collections are arranged by the local government or council using tax money (Article 6 (2) i of the Waste Management and Public Cleansing Act (Act No.137 of 1970)). The Association tends to oversee the collection points which may be set up in a plot of land owned by the Association. In 2005, the Supreme Court held that the Associations in Japan were established without rights, and thus cannot force local residents to join and must not stop the residents' right to resign at any time of the membership year unless the Association clearly states that such resignation is not permitted in its rule book.<sup>167</sup>

By this decision, together with the fact that the household waste collection services are organised by local government, any residents without unpaid levies are entitled to use the services, regardless of whether they are a member of their local Association. However, mass media including NHK, Japan Broadcasting Corporation, and Sankei Shimbun, one of major national newspapers, have respectively reported incidents of residents in Osaka (Japan Broadcasting Corporation, 2018) and in Tokyo (Sankei Shimbun, 2017) who, at the time of reporting, were banned from using the communal collection points and forced not to use the services because they had not joined their local Association. They both refused to join due to the sheer volume of the auto-assigned unpaid duties and chores that the Association demanded from its members.

The case, discussed on the resident's twitter feed leading eventually to being reported by NHK, was settled immediately after the broadcast: the local council initiated a tripartite discussion with the Association and the residents. Before the broadcast, the local council had responded to the resident that they, the Association and the resident, should discuss the matter directly, stating that the council can provide no solution since it offers no individual waste collection service to its residents. When the resident contacted the Association with some alternative proposals regarding the assigned duties and chores, she was turned down on the basis that accepting her offer would make an exception, which would be unfair to the rest of the community. Instead, the Association insisted on her joining the Association and undertaking all the chores and duties as other members, if she wished to use the collection point (Japan Broadcasting Corporation, 2018).

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<sup>167</sup> The matter number: 平成 16(ネ)946 listed in Shumin, vol.216 at 639.

Both cases reported were the similar but separate incidents occurred after the enforcement of the ADR Act 2004 in 2007. The reports also warned that similar neighbour dispute cases were on the increase across the country and that increasing numbers of people are now seeking legal advice to find solutions. Mediation was not used or even considered in either case, according to the reports, nor was there any encouragement to use mediation. Those reports also illustrated as that no 'community leaders', who offer mediation free of charge and out of their goodwill, were available in the areas where the incidents occurred.

In those mass media reports, the 'community leaders' of their local Associations seem certainly not in the position of undertaking mediation as they themselves were in dispute with the local residents. Both reports urged the administrative bodies, including local councils, to review the current system, including its ordinances and relationships with the local Associations, to ensure fair treatment for local residents.<sup>168</sup> As Sankei Shimbun (2017) has pointed out, the Associations were founded during World War II and people's lifestyles and needs have significantly changed since then. The law and rules binding its local residents and Associations need to change to reflect this.

However, these suggested changes and general restructuring that would address issues such as above discussed neighbour disputes, cannot be put on hold for years until such desired reforms are implemented. In order to address the issues promptly, for example so to use the waste collection points, the residents in this case study chose either to go court or leak their situation anonymously to the public, including mass media, rather than using mediation. This case study illustrates that the reason why people in Japan now do not use mediation is not so much because of a desire to preserve community harmony but because they do not tolerate someone who fails to act from a desire to keep harmony in the community. There is no need to discuss with such an 'intruder' to the community harmony. This supports the first traditional view above.

This does not mean that people do not use litigation. They know to use courts to argue and seek for judgments. Japanese people traditionally consider litigation as public decision-making and fight (Rokumoto, 1986: 247-248); they bring their issues before the courts to

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<sup>168</sup> A similar point is made in an article published by Kenmochi (2016), a researcher at the Legal Department of Japan Centre for Cities. Although Kenmochi (2016) did not mention using mediation to achieve autonomy in their own communities, she did suggest that administrative changes were urgently needed.



receive a judgement yet doing so means dispute. There has been a cultural tendency to observe legal frameworks or legislative measures as a 'last resort' and consider it as 'decorative' or systematic policies rather than practical tools to control society (Kawashima, 1967:47-48; Tanaka, 2000 and 2006). Thus, when they decide to act on solving their disputes, they do so by taking their opponents to places where they are exposed to a bigger, larger community such as online forum using twitter, mass media which broadcasts nationally, or the courts. Nonetheless, the courts take longer to decide and more money while SNS feeds and mass media take much shorter, if not immediate, to act and free of charge.

Miyatake (2017) has suggested that their heteronomous attitudes may be described as being a result of the Japanese losing or failing to develop enough autonomy over justice and their abilities to discuss and negotiate so as to be able to settle their own disputes. She further claimed that the Japanese will insist on their rights and entitlements despite lacking such autonomous techniques to settle own disputes without seeking a decision maker. As a result, when all parties are in conflict and are unable to yield to the other with the aim of finding a reasonable compromise, there will be no solution but to seek a third party to decide for them.

Mediation can be used effectively when all parties involved start to talk to each other about their issues, not at the point when one of the parties has decided to disclose to a third-party, whether social media or the courts. This case study illustrates the point made by Miyatake (2017) and Yamada (2009) that the Japanese appear not to trust the ADR, including mediation and would rather stay dependent on and wait for, their decision-making bodies to make the required changes to their everyday lives, than become autonomous. Such decision-making bodies are judges, administrative bodies such as the legislature, or any rule making bodies, and now also include the general public.

Communities seem not only to have lost their leaders, who, according to the traditional view, provided mediation, but also the people do not use, or perhaps distrust, mediation and *chōtei*. They expect courts, if not the wider public accessible through mass media such as national newspaper or TV programmes, to make decisions for them. When they do decide to argue and fight for justice, thereby breaking the harmony, which is still seen as a last resort, they prefer the dispute process to be disclosed and recorded semi-permanently and

officially. They do not hesitate to use mass media or courts then because their motive is to ask the wider society to be on their side for justice. They do not lose their face by speaking up for themselves treated unreasonably, either; their action also protects someone who may be in the similar position as theirs. In this way, they cannot be victimised for unfair decisions which may be the case in using mediation. Mediation and *chōtei* available in Japan do not meet this need to air grievances publicly because the process takes place behind closed doors.<sup>169</sup>

In such circumstances, introducing the notion of spirituality in mediation by using transliterated spirituality may not impress the public or be appreciated by its prospective users and service providers. In answering those two questions posed in the end of the previous section,<sup>170</sup> this section concludes as that mediation in Japan has been expected to be a part of judiciary where law is a central force. Although the ADR Act 2004 contains ‘alternative dispute resolution’ in its title and came into force in 2007, the people of Japan seem not to consider mediation as alternative to litigation. Because of the heteronomous attitudes together with the strong desires for obtaining resolution from a fair, authoritative body which includes the wider society as an entity rather than achieving settlements on their own, mediation in Japan did not have to develop the notion of using spirituality in settling disputes.

The notion expressed by Lois Gold and Mark S. Umbreit must have been observed by Japanese scholars as, again to reiterate, new, advanced and foreign (Horie, 2009), which should thus be expressed by transliteration. The consequences of using transliterated spirituality to introduce and apply the notion to such a small, unpopular mediation market will be analysed in more detail in the next chapter. In order to do so, the next section revisits the eight precepts as a notion in the context of the issues that have been explored in this chapter.

## 5.4 Would the notion of using spirituality in mediation be understood in Japan?

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<sup>169</sup> However, Miyatake (2017) claimed that the degree of confidentiality in private mediation is insufficient. See also, Yamada (2009).

<sup>170</sup> These questions are the reason the terms spiritual or spirituality did not appear in the Japanese-speaking mediation context prior to 2007 and why mediation has not increased in its use since 2007.

Based on the case study presented in the previous section, together with the issues explored in this chapter so far, this section poses the question whether it is realistic for the notion of spirituality to be used in the Japanese-speaking mediation context.

As discussed in Chapter 1, there are cultural minorities in Japan. The first precept identified in Gold (1993 and 2003) and Umbreit (1997; 2001) was that spirituality is applicable to and does not discriminate against anyone due to their culture. This wide, equal application of spirituality, regardless of cultural background, appears to be supportive in a multi-cultural society like Japan. It can remove cultural barriers that may exist between people. In the case study, the issue was over the auto-assigned duties so to use the shared waste-collection point. Likewise, the second precept, which removes barriers between religions by using the inclusive terms spiritual or spirituality, could have the same effect in the case study. Although the cultural and religious backgrounds of those involved were not revealed, the first and second precepts would fail immediately in a situation which involved disputing parties of different cultural and religious backgrounds if its application was limited to certain cultures including customs or religions.

In Japan where the ADR Act 2004 and other previous legislation widely recognise the risks of intersecting with members of organised crime, the third and fourth precepts may be better understood. As already discussed in Chapter 3, there are research conducted by Japanese researchers on power of language. Furthermore, according to Horie (2019: 17-16), transliterated spirituality used in the fields of psychology and sociology of religions contains people's interests and beliefs in such spirits of deceased. His research hints the possibility of Japanese speaking people to understand and accept spirituality used by Umbreit (1997 and 2001), which contain this aspect of indigenous mediation's spirituality. Although the third precept includes elements that cannot be tested or proved empirically, society acknowledges the risks of the intervention of a third party that uses threats and violence in dispute resolutions. This social awareness also extends to the part of the sixth precept that emphasises the need for mediation to be held somewhere safe.

With regards to the fifth precept, which is about shifting consciousness to a higher level, mediation in Japan has already introduced the transformative mediation model which uses similar terminology (Wada, Ando, and Tanaka, 2015; Wada and Nakanishi, 2016; Wada and

Otsuka, 2014; Science Council of Japan, 2008; Yoshida, 2009). When choosing a mediator rather than social or mass media to seek justice, this precept can be resembled and introduced as if being a part of the transformative mediation model. Those who are already familiar with transformative model including mediators and prospective clients will be capable of understanding the idea of a shift in consciousness. The issue discovered in this chapter, however, illustrates that the real problem is not about whether people in Japan would understand the idea; it is with their heteronomous attitudes and also with the unpopular mediation which does not *resolve* the issue for the disputants like courts do (Miyatake, 2017).

Considering how to encourage and promote third-party alternative dispute intervention in Japan is beyond the scope of the present thesis and needs to be taken up in future research. The focus of the present thesis is the introduction of the terms spiritual or spirituality by way of translation to Japan's mediation provision, a currently unpopular alternative to resolving disputes, without unpacking their meanings. While the importance of the fifth precept might be recognised by people in Japan, their attitudes as identified by the extensive research conducted by Miyatake (2017), remain unchanged. As a result, this fifth precept will be misunderstood. People, who have not established their own self-autonomy over justice and view mediation as an inferior process to litigation for resolving their issues (Miyatake, 2017), are less likely to understand the idea. They may understand the fifth precept as though a mediator resolves the issues brought to the mediation session for the clients by being connected.

Even so, there are further precepts. The differences between the shift described with reference to spirituality and the shift as described in the context of the transformative mediation model, have already been discussed in Chapter 4, in particular, the sixth precept, reference to feelings of holiness or sacredness. As shown in the seventh precept, such feelings of holiness or sacredness do not necessarily have religious connotations or are associated with organised religions. However, as discussed in Chapter 1, the binary classification as being either religious or non-religious exists in Japan (Lewis, 2018).

As seen in Chapter 3, faith-based mediation was described as accommodating spirituality, whereas mediation described by using the terms spiritual or spirituality is not necessarily

always to become faith-based mediation. In a similar manner, some practitioners in non-indigenous mediation do not specify their practice model when using the terms spiritual or spirituality to describe their mediation practice. Under the seventh and eighth precepts, a mediator may explain that this sense of holiness or sacredness does not imply any religious doctrine or faith and may emphasise the differences between their mediation and faith-based mediation; however, other mediators and prospective clients in Japan will draw on the two opposing categories of the binary classification, religious or non-religious, to understand these precepts.

This section concludes that, although the notion of using spirituality may be understood and recognised as important, it raises a number of issues. However, given the realities of the Japanese-speaking mediation context, transliterating the English term spirituality may appear to be a reasonable choice. As discussed in Chapter 2, the relationship between transliterated spirituality and religion, which relates to the second precept, can be categorised in four ways (Ando, 2006): transliterated spirituality includes religion; they overlap although are partially different; religion contains spirituality; or both are different (for similar arguments see Kasai, 2003: 124). These four categorisations reflect and acknowledge the second precept well. The notion thus has been introduced by using transliteration to emphasise the idea is advanced, stylish and not originally developed in the Japanese-speaking mediation context (Horie, 2009; 2019).

Transliterated spirituality also succeeded to lose the meaning of the supernatural or otherworldliness by replacing the term *reisei* which contains the letter *rei* (霊). Although the application of transliteration may be preferred by the Japanese-speaking audience who seemingly only depend on the binary classification as being religious or non-religious, Umbreit's (2001) spirituality contains both spiritualities used in the indigenous and non-indigenous mediation. The latter spirituality is ironically better described by using the term *reisei*, due to the letter *rei* (霊) which connotes the concept of the supernatural or otherworldliness. Therefore, the next chapter articulates suitability of the currently applied Japanese translations.

## 5.5 Conclusion

To establish whether the notion of spirituality generated in Chapter 3 has ever been a part of mediation in Japan, this chapter has discussed how mediation has developed in the country and what users expect from mediation. The people of Japan recognise the need to preserve the mediation session as a safe space due to their societal problems with organised crime groups. However, there is no clear evidence that mediation in Japan has ever been associated with the spirituality that Lois Gold and Mark S. Umbreit refer to. On the other hand, the desire to make mediation practices safer could make Japanese speaking mediators and prospective clients receptive to the notion of using spirituality in the context of mediation.

In addition, it has been suggested that litigation processes which ultimately make decisions about who is right and who is wrong undermine the value Japanese people place on maintaining harmonious relationships. Because maintaining 'harmony' tends to be the priority, it has once been argued, disputants would come to settlement to save the mediator's face, who is often a member of their close-knit community such as a family member or community leader (Wada, Ando and Tanaka, 2015: 4).

In the past two decades, Japan has taken the rather radical, progressive approach in both certifying its mediators and excluding some groups from becoming mediators by way of the ADR Act 2004. The enactment of the Act was as a result of recognising that who mediates matters; however, unsurprisingly, this was not due to any recognition of mediation having a spiritual dimension. Rather, Japan needed the legislation to safeguard its mediation users from anti-social groups such as organised crime groups, including *Yakuza*.

Although mediation has long been used in Japan, the Japanese equivalences to the English word 'spirituality' has only been used in the context of mediation for the past two decades or less since the translation of Gold and Umbreit's work by Fujioka (2007) using transliteration and the term *seishin*. Because transliterated spirituality associates the notion with being 'advanced', 'new', 'foreign' and 'stylish' (Horie, 2009), Fujioka (2007) and Ishihara (Kumamoto Jinzai Shinbun, 2012) perhaps both chose to use the transliteration in their work.

In such circumstances, describing mediation practice using the transliterated term spirituality seems rather abrupt. While Japan has historically put significant weight on keeping harmonious relationships regardless of its legal development, ADR, including certified private mediation, has not been used much and there has been no increase in its use since the enactment (Japan ADR Association, 2018). Miyatake (2017) and Yamada (2009) have proposed a number of reasons for this unpopularity and these have been discussed through a case study of a recent neighbour dispute that was reported by the national media. The community mediators who, used to be available in these situations to intervene informally, are no longer available. Instead, disputants prefer to look to the wider community or turn to courts to seek 'justice'.

This attitude has been described as heteronomous by Miyatake (2017); however, the people of Japan solve disputes by drawing on *giri*, *seken-tei* and respect for *wa* in their community. The larger the community, the more shame they will face. Thus, Japanese risk loss of faces when using such heteronomous methods because they need to defend and win their claims. When they do so, they do not use alternatives to litigation because they want a definitive judgment; however, this does not need to be the court process, which takes longer and costs more. If the matter is urgent, they will use the media to seek that judgement.

Finally, mediation available either as a form of *chō-tei* or private mediation made available under the ADR Act 2004 require users to have access to legal advice; the former is attended by a judge together with *chō-tei* personnel and the latter requires mediators to be legal experts depending on the issue that is being disputed; alternatively, if the mediator does not have the requisite expertise, they need to ensure that their clients have access to the necessary legal advice. For Japanese-speaking disputants, mediation is inseparable from legal advice and they therefore expect its outcome to be consistent with the rule of law. In such expectations, using litigation and attending mediation are in the same category of fight to seek justice (Rokumoto, 1986: 247-248).

Given these factors, using transliteration to introduce a notion like spirituality, whose meaning is context dependent, without first defining its meaning in the specific context, is bound to result in ambiguity. Certainly, the introduction of the term in 2007 does not appear to have contributed to increasing the popularity of mediation in Japan. This does not mean

that people in Japan do not recognise or understand each precept. However, people's binary classification as being either religious or non-religious also influences the extent to which some of the precepts can be conveyed accurately. While transliteration may contribute to reducing some of the identified issues, it is also problematic in other ways, as discussed in this chapter as well as Chapter 2. Thus, the suitability of introducing the notion using current translations will be discussed in the following chapter.



## 6 Suitability of the currently applied translations in the Japanese-speaking mediation context

### 6.1 Introduction

While mediation is unpopular in Japan, expected to be a part of legal profession and still in the process of gaining public trust, the introduction of the notion described by the English terms spiritual and spirituality to the Japanese-speaking mediation context in 2007 itself might have been rather abrupt. This is especially so considering the fact that most of the precepts regarding the notion of using spirituality has never been discussed in regard to mediation in Japan before that year, although there are enough insights where those precepts are understood and accepted by both mediators and clients. Based on such present circumstances, this chapter articulates the suitability of the translations applied for these English terms in the context of mediation in Japan.

This chapter first discusses the suitability of the currently applied Japanese translations, that are *seishin* and transliterated spirituality, for the English terms spiritual and spirituality used in the context of mediation. The applied term *seishin* often relates to mental, psychological aspects, and whether this term meets the eight precepts generated in the textual analyses is discussed. The following discussion in this section is to revisit the relationship between the transliterated spiritualities used in peacebuilding and mediation in Japan.<sup>171</sup> Provided the meaning of transliterated spirituality are the same in both peacebuilding and mediation, the mediators who use the terms in the context of Japanese-speaking mediation may be categorised and recognised the same as peacebuilders. If their meanings are different, it poses the question on the suitability of the translation. The third discussion is on the relationship between transliterated spirituality and religion in the context of Japanese-speaking mediation.

As already mentioned in Chapter 2, transliterated spirituality, which has currently been applied as its translation, has only been used since the late 1970s (Shimazono, 2012). On the other hand, Japan's mediation practice had already been used long before then although it

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<sup>171</sup> To reiterate, the same transliterated spirituality has been used in both peacebuilding and mediation which are not the same professions. By using the same term, the border between the two professions has become ambiguous.

only admits some of the generated precepts of spirituality as discussed in the previous chapter. Should the present thesis find the transliteration, a relatively new word, as more suitable for the English terms spiritual or spirituality in the Japanese-speaking mediation context, the findings mean that spirituality has nothing to do with mediation conducted before the 1970s.

However, such finding appears rather odd already for two reasons. First, there has been no significant change then as observed in Chapter 5. Secondly, the question was already evident in that chapter as to whether the term *reisei* can be better suited as a translation for the English terms 'spiritual' and 'spirituality' used by Lois Gold (1993 and 2003) and Mark S. Umbreit (1997 and 2001) due to the letter *rei* (霊). Thus, the subsequent sections articulate what *reisei* is and whether this other term, *reisei*, should be used as a Japanese translation of the English term spirituality in the mediation context.

## 6.2 Revisiting the currently applied translations with the eight precepts

Based on the findings so far, do the currently applied Japanese translations used in its mediation context for the English terms spiritual or spirituality used by Lois Gold and Mark S. Umbreit convey what the two authors mean by these terms in the Japanese-speaking mediation context?

### 6.2.1 Does the term *seishin* convey the eight precepts?

The meanings of the term *seishin* were discussed in Chapter 1. All of the eight precepts may be able to replace the English term spirituality with the term *seishin*, except for the second precept. Without doubt, *seishin*, which is equivalent to 'mentality', 'wills' or 'mind' in the English language, applies to anyone because all human beings have it. One's mentality may affect other people around the one both negatively and positively, and others can sense the one's psychological being or state without oral communication. Highly motivated people can influence others through direct communication to achieve their purposes, and such influences can be responded to better in safe spaces than by using threats and violence. Such safe spaces need not be religious and will be non-judgemental. However, the second precept causes difficulties if *seishin* were to translate the English term spirituality. The

arguments as to whether *seishin*, which can be mentality, wills or mind, either includes, is equivalent to, different from or interchangeable with, religions do not make much literal sense.

The term *seishin* indicates psychological or mental conditions or states of human beings. In the research on spirituality in the field of mental health welfare by Hashimoto (2014), the terms *seishin* and the transliterated spirituality were clearly distinguished. While the former referred to mental states of human beings, the latter was used to translate the English term spirituality used in the English resources published in the field. Nonetheless, the meaning of 'spirituality' in this context is not the same as the eight precepts identified in this research. However, the important point here is that, in Japanese research using both English and Japanese resources, those two Japanese terms are not used as synonym (see Tazaki, Matsuda and Nakane, 2001 and 2002).

The English terms spiritual or spirituality concerned in the present thesis are those used by Gold (1993 and 2003) and Umbreit (1997 and 2001) do not refer to any psychological or mental conditions of their clients during the mediation sessions they experienced because of their clear distinction between mediation and psychotherapy. In Gold's (1993) view, the psychological pain and mental state exist separately and independently from her discussion of spirituality in the context of mediation. Gold (2003: 210) described the language of the spiritual reaches the deeper part of the psyche of her clients; she is trying to indicate the process of accessing something more than *seishin* or the mind of her clients. Similarly, Umbreit (2001) stressed, while admitting there was a positive implication from client-centred psychotherapy of Carl Rogers toward mediation in general, the humanistic mediation model does not require mediators to work on the clients' emotional reasons for disputing with others, which are often caused by or originated from their past events or experiences. Such work is left for therapists (Umbreit, 2001: 7).

When the Japanese terms *seishinteki* or *seishin* translate the English terms spiritual or spirituality, those Japanese terms, despite having been used as translations for those English terms, risk distorting those authors' arguments as whole. This is setting aside the point that the term *seishin* fails to make any literal sense should it be used in the second precept. Although the references to those English terms by either Gold (1993 and 2003) or Umbreit

(1997 and 2001) were only a component and do not form the whole framework of their published opinions, that part is an important element in contributing to shaping their arguments. In a similar manner for healthcare professionals (Tazaki, Matsuda, and Nakane: 2001 and 2002), the term *seishin* does not reflect what those two authors tried to convey in their English publications, either. In order to translate the English terms spiritual and spirituality used by those two authors, the present thesis found the term *seishin* as inadequate.

In discussing the meaning of *seishin*, which was a relatively new word at that time, Suzuki (1944/1972) describes it as thus having come to contain various meanings. Although this was written over 70 years ago, his subsequent paragraph discussing what *seishin* meant reads as:

*So, without stopping to consider whether seishin meant kokoro or tamashii, the Japanese have combined characters and coined new words indiscriminately, under pre-text that the old forms were euphonically uninteresting, etc. Indiscriminate new word combinations have been and still are being manufactured, consciously and unconsciously, in all cultural quarters. Once they are coined-even though they might have been intended for just a short period of use-vested interests form around them which become highly difficult to remove. Though they might be inconvenient or even inappropriate, their power to live on becomes more and more tenacious as time passes (Suzuki, 1944/1972: 13, emphasis in the original, but in italic letters).*

What Suzuki (1944/1972) described about *seishin* in 1944 seems still applicable to the shown situation in the present thesis. However, in modern Japan, the word *seishin* is used as a translation of the English term spirituality in addition to the multiple meanings it already had in 1944. As a result, despite Suzuki's clear distinction between *seishin* and *reisei*, both *seishin* and the transliterated spirituality ironically became the synonyms of *reisei* which was translated as 'spirituality' in English in Suzuki's 1972 book.

The transliterated spirituality together with *seishin* used in the context of Japanese-speaking mediation might be simply another example of such 'manufactured' words in Suzuki's words bearing the vested interests which are to accommodate the English term spirituality used by foreign mediators in the Japanese-speaking mediation contexts. Whether Daisetz Suzuki might agree or might not, with such a view is outside of the research focus of the present thesis, yet the current situation of the Japanese language in relation to what is expressed by the English terms spiritual and spirituality is mystifying.

The next subsection discusses the suitability of transliterated spirituality even though it has already been used to translate the English term spirituality in both fields of peacebuilding and mediation.

### **6.2.2 Transliterated spirituality shared with peacebuilding**

Unlike the term *seishin*, the suitability of transliterated spirituality as a translation for the English term spirituality cannot be analysed simply by arguing the meanings of transliterated spirituality in the mediation context. Transliteration enables the Japanese language to transplant the original foreign word by making the word as a Japanese word. Thus, transliterated spirituality should not be questioned as to whether it can be used as a replacement of the English term. According to Japanese scholars as discussed in Chapter 2, transliterated spirituality changes its meaning depending on the context in which it is used. Similarly, as articulated in Chapter 3, the meanings of the English term spirituality are also context-bound in nature, if not user-dependent. According to Hayashi (2007), the reason why each transliterated spirituality bears different meanings and it is not possible to find any commonality across such diverse applications, is the original term did not and still does not establish its independent meaning. The textual analyses discovered each user used these terminologies to convey their opinions, albeit different.

Therefore, or perhaps because of that, the issues with transliterated spirituality in the context of Japanese-speaking mediation are not in the term itself or with the diverse fields or contexts in which the term is originally used, but the variances in available translations in the Japanese language. The same transliterated spirituality has been used in different fields without fixing their meanings in each field. Mediation as a profession particularly concerns with peacebuilding and religious studies. Spirituality in peacebuilding in Japan falls in the second category of the New Spiritual Movements and Culture suggested by Shimazono (2007b and 2012).<sup>172</sup> Spirituality used by Lois Gold and Mark S. Umbreit does not attempt any commercialisation or commodification of their services and does not fall in the first sector suggested by Shimazono (2007b and 2012). It is arguable, though, as to whether those mediators' spirituality meets the second sector identified by Shimazono (2007b and 2012) in the same way as spirituality used in peacebuilding. The expectations of using mediation

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<sup>172</sup> This was in Chapter 2. As for a reminder, the first category of the New Spiritual Movements and Culture includes sectors where transliterated spirituality is used to achieve more privatised healing and enlightenment in commercialised forms or commodities; the second is in more secular sectors where caring professionals actively use it to achieve pacifism in people's internal self (Shimazono, 2012; see also, Shimazono, 2007a).

in Japanese society revealed in the previous chapter included maintaining harmony in the community which consist of the complex nature of what is moral or not based on the senses of *wa*, *giri*, and *sekentei*. These senses can be summarised as pacifism as they are to pursue a sense of harmony.

However, as seen in Chapter 3, the textual analyses did not reveal any proposals put forward by those two authors to use spirituality to achieve peace and reconciliation. What those authors discussed in their publications was to describe their mediation experience by retrospectively selecting the term spiritual or spirituality. Both Gold (1993 and 2003) and Umbreit (1997 and 2001) emphasised the importance of spirituality based on their past experiences yet did not propose to use spirituality as a mediator to *achieve* the settlements in mediation. What they proposed were respectively to use healing and humanistic mediation model in mediation sessions. In either of their arguments, spirituality appeared as a component of their main arguments, which are on how to conduct mediation.

Although eight precepts were generated to understand the meaning of the terms spiritual and spirituality, the presence of those precepts in the mediation sessions do not promise the mediator would use the terms spiritual or spirituality to describe his or her mediation, either. When using spirituality to describe mediation, regardless of whether it is indigenous or non-indigenous mediation, mediators did not argue to enforce pacifism during their mediation sessions. To state the obvious here, although mediators use numerous techniques such as listening, summarising, questioning, reality testing, reframing, mutualising, normalising, or even gestures, moods, and other forms of rituals (Brigg, 2003:292-298; Fisher, 2000; McGuigan and Popp: 2012; O'Leary, 2014:27; Simmel, 1950: 149; Wada and Nakanishi, 2016; Wada and Nakanishi, 2010; Whatling, 2012), they do not force their opinions onto their clients.

Instead, mediators apply 'symbols' which include, but are not limited to, rituals, visual arts, metaphors, stories or verbal and body language communication (Jones, 2009: 153-155; Fisher, 2000: 88; Nudler, 1993: 4) and unique seating arrangements (Roberts and Palmer, 2005: 173-174). By using those techniques and strategies, mediators bring disputing parties to the common arena to recognise their issues and find solutions by themselves. The importance of a mediator's interpreting role to bridge the differences which caused the

dispute between the clients attending the mediation sessions (Nudler, 1993: 5). Again, Umbreit (2001) cautioned mediators not to initiate the importance of spirituality in the mediation sessions based on their own perceptions.

Mediation would not allow pacifism to be used in combination with, or as an indication of, spirituality. A mediators' professional intention to engage in dispute settlements through mediation is purely to attend the negotiation between the disputants to settle their issues. Their role is not to judge their clients based on the mediator's own opinions, including those of pacifism, and they do not need to share with their prospective clients their personal views on what peace is. To this end, there is no need for them to express the ethos of their entire practice by sharing the view of pacifism nor using the terms spiritual or spirituality unless they are asked to do so by their prospective clients.

In other words, pacifism in mediation not only can exist independently without those terms but also is not required to conduct mediation. It is their clients' choice to have pacifism because that decision, including whether to initiate mediation sessions, is left to them. Despite the overlapping nature between peacebuilding and mediation, spirituality used in the context of mediation does not quite fall in either of Shimazono's two categories which were described as a walk-away path from salvation, often offered by religions (Shimazono, 2007b and 2012).

Furthermore, neither Umbreit (1997 and 2005), who suggested taking a humanistic approach in dispute resolution, nor Gold (1993 and 2003), whose spirituality focuses on the language of soul in healing paradigm, resembled their spirituality with love in the same way as Diamond (2000). Although Gold (1993 and 2003) referred to the word love as a uniting principle in her suggested healing paradigm, her spirituality remained independent. Because peacebuilding used transliterated spirituality to introduce the notion expressed by the English terms spiritual and spirituality earlier than 2007 (see for instance, Diamond, 2002), the transliteration used by peacebuilding scholars in Japan might have influenced Japan's mediation scholars when understanding the same English terms in the mediation context as shown in Ishihara's association between spirituality and love (as cited in Kumamoto Jinzai Shinbun, 2012). Ishihara's parallel use of love and spirituality in the Japanese-speaking mediation context may further confuse the public audience. Those audiences are already

bemused by the ever-changing meanings of the context bound transliterated spirituality (Kashio, 2012; Sakurai, 2012), regarding the differences between peacebuilders aiming at achieving reconciliation and mediators attending the negotiation between the disputants who try to settle their dispute.

The same transliterated spirituality used respectively in peacebuilding and mediation in Japan holds different meanings. At this point in the argument, further important points must be addressed by using the eight precepts of spirituality in the Japanese-speaking mediation context. Although the non-indigenous mediation's spirituality shows some attributions to spirituality used in peacebuilding, the meaning of transliterated spirituality used in peacebuilding, which was discussed in Chapter 2, does not match the spirituality used in indigenous mediation such as some selected elderly members possess the spiritual power to communicate with the ancestry's spirits. Umbreit (1997), whose usage of spirituality was introduced to the context of Japanese-speaking mediation, did not discriminate and included both indigenous and non-indigenous spirituality used in the mediation context by focusing on the commonalities rather than differences. The importance of not initiating any notion regarding spirituality during mediation sessions, cautioned by Umbreit (2001), means to be sensible toward any differences hidden in the term spirituality.

As observed in the field of peacebuilding, the localisations of the introduced notion are attempted by reflecting the idea into Japanese society, considering the issues existing in society, and using the familiar diagram applying the horizontal and vertical axes. The overlap of the similar two axes applied in peacebuilding and religious studies further mislead the audience in judging whether peacebuilding practices are religious practices or vice versa. As seen in the second precept discussed in Chapter 3, the relationship of spirituality with religions in mediation overlaps with Ando's (2006) four categories of the relationship.<sup>173</sup> The concept of settling the issues by shifting consciousness to a higher level in a safer mediation space where people have a sense of sacredness as summarised as the fifth, sixth and seventh precepts may also appear to be overlapping with those two sets of axes of peacebuilding and religious studies. This is even though those two authors, Gold and Umbreit, display no religious impulse in their publications.

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<sup>173</sup> To reiterate, the four categories are that the transliterated spirituality includes religion, both overlaps although partially different, religion contains spirituality, or both are different



Because of these overlaps, 'spirituality' used in the Japanese-speaking mediation context, therefore, risks being compared with religions even though mediation based on religious faiths remains a faith-based mediation model and an application of spirituality is not necessarily fixed to that model. In fact, Umbreit's mediation trainings held in Kumamoto, Japan, in 2017 attracted participants with their own religious faiths (Ishihara, 2017a). Judging the application of transliterated spirituality in the context of mediation by the people of Japan can be solely based on the extended ideal of being 'religious' or 'non-religious' (Lewis, 2018: 304). Even though in Lewis's (2018: 304) words, they may have reached the point of understanding, "deeper than distinction between 'religious' and 'secular', or 'the sacred' and 'the profane'", their binary classification as being either religious or non-religious does not so easily fade away (Horie, 2018).

Spirituality used in the English-speaking mediation context is at risk of being replaced with religions or 'something religious' in the Japanese-speaking mediation context because of the existing transliterated spirituality in other fields, despite the clear distinction between faith-based mediation and what Gold (1993 and 2003) and Umbreit (1997 and 2001) claimed by using those terms. Indigenous spirituality would have been diminished if the transliterated term were understood as something religious. When translating the English terms spiritual and spirituality as used in the context of mediation into the Japanese language, more academic and professional attention might have been required on how those terminologies were used in the English-speaking mediation context. As rightly pointed out for health care professions by Tazaki, Matsuda, and Nakane (2001 and 2002), introducing the idea by randomly translating those terms may as well risk undermining the professional credibility of mediators in Japan.

Considering the discussions in this section thus far, the term *reisei*, although described in detail by Daisetz Suzuki (1944/1972), may be a better suited Japanese translation than the term *seishin* or the transliterated spirituality for the English term spirituality used in the context of mediation. In order to discuss the consequence of applying such a term in the context of Japanese-speaking mediation, the following subsection articulates how vaguely the people in Japan recognise their own religion or faith (Lewis, 2018; Nakamura, 2012).

### 6.2.3 Persisting issues about being religious or non-religious

One solution to clarify the identified overlaps thus far may be by using the term *reisei* as a translation of the English term spirituality and explaining the meanings in the context of mediation. However, Lewis (2018) points out that the people of Japan use the binary classification as being either religious or non-religious. “When we see an object we relate it to what we know and understand, for it is impossible to do otherwise. [... we] would attempt to explain it in terms of what [we] knew” (Jackson, 2011: 86). Flew (1975) also states that religious experience seems, “to depend on the interests, background and expectations of those who have them rather than on anything separate and autonomous” (Flew, 1975 as cited by Jackson, 2011: 85).

For example, the following passage may be understood differently depending on the readers’ views on religion:

*Law reflects but in no sense determines the moral worth of a society. The values of a reasonably just society will reflect themselves in a reasonably just law. The better the society, the less law there will be. In Heaven there will be no law, and the lion will lie down with the lamb. The values of an unjust society will reflect themselves in an unjust law. The worse the society, the more law there will be. In Hell, there will be nothing but law, and due process will be meticulously observed. (Holmes, 1881 being paraphrased by Gilmore, 1977/1917: 110)*

This paragraph in Gilmore (1977/1917), a commercial lawyer then teaching at Yale Law School, on Heaven and Hell, came from his knowledge of religious doctrines. Restricting this paragraph to Religious Studies and not locating in Law as an academic discipline undermines the value of his experiences and knowledge as a lawyer. Likewise, limiting this paragraph to the understanding of socio-legal aspects also ignores the influences of religions and religiosity on people and their importance. Therefore, in order to further deepen the understanding of the issues caused by the binary classification of Japanese-speaking people when they face the notion of using spirituality in the context of mediation, this subsection discusses how the overlap, the transliterated spirituality and religions, in the mediation context impacts on Japanese-speaking mediation.

The discussion should start with the story shared by Nitobe (2004/1899) when he had to explain to his Christian friends in the USA how Japan educated its citizens without relying on religion. He said that *Bushido* was used in place of religion.<sup>174</sup> Nitobe (2004: 1899: 6)

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<sup>174</sup> The Japanese translation of *Bushido* is 武士道.

explained as “Military-Knight-Ways – the ways which fighting nobles should observe in their daily life as well as in their vocation; in a word, the “Precepts of Knighthood,” the *noblesse oblige* of the warrior class”. *Samurai* culture is no longer evident in modern Japan although its tradition may remain in the country.<sup>175</sup> As *Bushido* no longer exists, people attend compulsory school education between the ages of six and fifteen in today’s Japan.

In order to achieve such an aim, some schools introduced Emoto’s (2001/1999) water experiments as moral education class-room materials and the introductions caused sensational debates as to whether such should be used in a class-room setting to teach pupils and students morality and ethics (Kikuchi, 2016).<sup>176</sup> Why do they not introduce any religions to replace *Bushido* then?

Article 20(3) of the Constitution of Japan states, “[t]he State and its organs shall refrain from religious education or any other religious activity” but does not mean to undermine the importance of religious education or religions. Article 23 of the Constitution states that, “[a]cademic freedom is guaranteed”, and the Basic Act on Education 2006 Article 15 under the heading of Religious Education has two subsections; (1) “[r]eligious tolerance, general knowledge about religion, and the position of religion in social life must be valued in education”, and (2) “[t]he schools established by the national and local governments shall refrain from religious education in favour of any specific religion, and from other religious activities”.

In private schools, religious education may be provided for pupils from Year 1 up to Year 6, between the ages of six and twelve, under Article 50 of the Regulation for Enforcement of the School Education Act (No. 11 of 1947). While privately funded schools can incorporate any religion of their choice into their education policies and philosophies and give their

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<sup>175</sup> The Japanese translation of *Samurai* is 侍.

<sup>176</sup> In 2014, Oshitani (2014a: 6-7), a scholar of Religious Studies and Education in Japan, introduced a similar episode to Nitobe’s. He was asked by an American journalist of *Boston Globe* how the Japanese people judge right from wrong. The journalist claimed that he uses Jewish doctrines to judge such due to his faith. Oshitani (2014a: 7) answered that most Japanese people would refer such judgement to *Ten* (天), the literal translation would be somewhere above, such as the sky or heaven, at the same time as reflecting on how other people in the community might think of *kiyoki-akaki-kokoro* (清明心), ‘one’s clean faithful heart’. The journalist further asked Oshitani on whether he agreed with the concept of what ‘people in the community would think’ is ambiguous and whether such a ‘clean faithful heart’ could become a cause of terrorist attacks, perhaps hinting *Kamikaze* in World War II. Oshitani (2014a: 7) explained that such ambiguous targets would contain various standards for one’s judgements, thus the Japanese people emphasise moral education at schools without religion but relying on cultural tendencies of loving nature and respecting the law of nature. He also claimed that such ‘clean faithful hearts’ could have been the trigger for *Kamikaze* in World War II and urged the importance of educating the Japanese children and students to the moral standard of how a person with a ‘clean and faithful heart’ should be.

students moral education based on these chosen religious doctrines, public schools remain free of any religions and their influences.

However, all Japanese students who attend Years 6 to 9 of the nine-year compulsory school education, learn *about* religions in social studies classes by, in most cases, using textbooks published by recognised and authorised publishers by the Ministry of Education, Culture, Sports, Science and Technology (the 'MEXT') (Oshitani, 2014b:44; Oshitani, 2016b). According to the MEXT website, the market share of such social studies textbooks by those publishers is over 90% (MEXT, 2009b). The education guideline issued also on the MEXT website states that those social study textbooks contain sections of religions including Buddhism, Christianity, Confucianism, Muslim, Hinduism, Judaism, and Shinto, to introduce their origins, histories, current world populations of their believers and geographic areas, in addition to some of their basic religious practices and historical facts (MEXT, 2009b; Oshitani, 2014b; 2016b).<sup>177</sup>

On contrary, religious beliefs, which the Japanese people have acquired naturally through their everyday customs, are something based more on nature worship (Oshitani, 2014a: 4). Some, if not a majority of, people in Japan do not particularly rely on any doctrines yet recognise those beliefs and faiths as being more like rituals and practices which have been passed on from generation to generation (Oshitani, 2014a: 4). According to the public opinion survey conducted in 2013 by the Agency of Cultural Affairs, Government of Japan (2015: 54-63), 72% of 3170 Japanese participants, male and female aged between 20 and 80, answered that they do not believe in any religion or have religious faith. A different public opinion poll, Research No 960 conducted also in 2013 by Jiji Press Business Department, found that 50% of 1271 participants including both males and females of at least 20 years of age, did not believe in any religions and have no belief in any religious doctrines (the Cabinet Public Relations Office of the Japanese Government, 2014). Results from another poll in 2018, which has been conducted once every five years since 1973, using the same questions and same methods, shows that only 25.9% of 2751 participants including

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<sup>177</sup> For example, the basic practices and introductory facts include, but not limited to, the codification of the Seventeen-article constitution by Prince Shōtoku was largely affected by Buddhism belief and doctrines of Confucianism, celebrating Christmas and Easter originated in Christianity, Hindus believe that cows are a sacred animal, Jewish people living in Germany suffered because of the holocaust, Muslims do not eat pork and pray five times a day, Shinto has some links to animism and so on (Oshitani, 2014b; 2016b).

both male and female and being 16 years or older, answered that they do not believe in any religion or have religious faith (Japan Broadcasting Corporation, 2018: 15).

As highlighted by those different percentages, the religious tendencies, preferences, or practices of the people of Japan cannot be observed through surveys. The reason is better illustrated by Lewis (2018: 1 citing Lewis, 1993: 59 and Lewis, 2013: 39) who conducted his interview survey with a Japanese married couple. When Lewis asked one of his interviewees, a married man, whether he had a religion and if so which, he answered that he was a Shintoist because he had a *butsudan*.<sup>178</sup> When his wife heard his answer she said that this would make him a Buddhist not a Shintoist, and he corrected himself saying, “in that case, I’m a Buddhist and not a Shintoist after all” (Lewis, 2018: 1). This example does not seem to be a new trend in recent Japan. Daisetz Suzuki (1944/1972: 64) had already stated in 1944 that the Japanese people did not put much weight on their religions and claimed how uncertain they were about their own religions.

In fact, there are households that possess both the *kamidana* and *butsudan* (Lewis, 2018: 269).<sup>179</sup> In addition, many religious furniture shops in Japan sell both the *kamidana* and *butsudan* in the same premises (see for instance, Kondo Butsudanten, 2006).<sup>180</sup> Syncretism as seen in those multi-religious behaviours is not limited to Japan (Sasaki, 1996: 267-268) nor new as have been observed since the era of Prince Shōtoku (Tanaka, 2000). However, an interpretation of those different statistics’ results in relation to their religiousness (Agency of Cultural Affairs, Government of Japan, 2015; Cabinet Public Relations Office of the Japanese Government, 2014; Japan Broadcasting Corporation, 2018), together with their uncertainties over different religions including their own religion could be that the Japanese people are becoming more ‘secular’ and atheist.

However, the Japanese people, who only learn about religions in school education, do not mean to be atheist when they refer themselves as non-religious (Ama, 1996/2005; Nakamura, 2012).<sup>181</sup> Their religious consciousness or knowledge is deeply embedded in their everyday life as custom and thus not recognised as ‘religious’ (Lewis, 2018). Lewis (2018: 63-

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<sup>178</sup> The Japanese translation of *butsudan* is 仏壇, meaning “Buddhist household altar” (Lewis, 2018: 337).

<sup>179</sup> The Japanese translation of *kamidana* is 神棚, meaning “Shinto god-shelf” (Lewis, 2018: 338) or Shinto altar.

<sup>180</sup> Similar stories have also been found in Sugawara (2003: 83-86).

<sup>181</sup> As mentioned in Chapter 1.

64) cautions, based on his research findings, that the knowledge of the Japanese people about religions may not reflect what they do in their daily lives. When the Japanese people refer themselves as 'religious', they mean to maintain "an exclusive relationship with only one religion" (Lewis, 2018: 63). Those who self-declare as 'non-religious', still "visit Shinto shrines at New Year, buy safety charms, observe ancestral rites at times or participate in other kinds of 'religious' activities" (Lewis, 2018: 64 by citing Lewis, 1993: 270; 2013: 256). These attitudes and interests are behind the rapid transliterated spirituality trend identified by Gaitanidis (2012), Horie (2018), and Sakurai (2012).

The 'religious' activities of such 'non-religious' people in Japan are often expressed as their 'customs' without knowing that those activities originate from religious reasons (Lewis, 2018: 64). By looking into their 'customs' from birth to death, Lewis (2018: 334) concludes as:

*A mixture of underlying motivations and deep-stated cultural 'key themes' appear in a variety of individual circumstances and contexts to form the 'kaleidoscope' of religious behaviour observable on the 'surface' in daily life. [...although there are individual and generational differences in such behaviour], all these social and individual patterns are like the waves that shift and turn the sand on the seashore but do not affect the mineralogical composition of the sand grains themselves.*

These views may be better understood if taken with statistics reflecting the gaps between what people of Japan think and do in relation to religions. In Japan, there is no national religion due to Article 20(1) of the Constitution of Japan which promises freedom of religion. In a survey conducted by the Japanese government (Agency of Cultural Affairs, Government of Japan, 2015: 54-63), while 66% of 1591 participants said that they consider religious beliefs and faiths to be important, the number of people who answer so, steadily increased depending on their age; from 55% of the participants in their 20s to 77% in the 70s. In addition, 45% of 1579 participants answered that humans can be saved by combining scientific discoveries and religious faith (Agency of Cultural Affairs, Government of Japan, 2015: 54-63).

The aforementioned poll conducted by the Japan Broadcasting Corporation in 2018 further reported that 30.6% of 2751 participants answered that they do believe in 'gods'; 37.8% 'Buddha'; and 5.7% any religious faiths or doctrines (Japan Broadcasting Corporation, 2018:

15).<sup>182</sup> As mentioned earlier, those who did not believe anything related to religions or faiths at all was 31.8 %; however, only 11.5% of the participants answered they do not do anything religious. The differences in these percentages highlight that some people do something religious yet declare they are not religious. Among the total participants, 72% answered that they visit their family members' grave at least once or twice a year, 34.7% answered that they wear objects such as safety charms and talismans, and 28.7% answered that they went somewhere to pray for their own or other's safety, business success or exam success (Japan Broadcasting Corporation, 2018: 15).

Considering 72% of the participants answered yes to the question, some of the 31.8%, who considered themselves as non-believers of religions answered they visited their family members' grave at least once or twice a year, although that is a very small number. While Lewis (2018: 2) criticises that the questions used by Japan Broadcasting Corporation in 2013 on objects or fortune telling failed to categorise different types of deviation of the fortune telling such as astrology, palmistry, name-divination and various others,<sup>183</sup> this 2018 survey results mean that some people do believe in their now deceased ancestry as spirits but declare as they do not believe anything religious.

Furthermore, Shimizu (2016: 154) discovered that, based on her cohort analyses of the survey done by the Corporation in 2013, an increased number of the younger generation aged between 16 and 35 believe in miracles and fortune-telling regardless of their devotion. There may be a new attitude among the population to respect something mystical or transcendental in nature instead of God or the Divine of institutionalised religions (Shimizu, 2016: 154). Such a new preference grew because organised religions are now "increasingly viewed with a critical eye" in a contemporary Japan (Nelson, 2008: 305).

Negative feelings of people in Japan towards institutionalised religions are also reported by Numano (1996). People in Japan might categorise themselves as 'non-believers' of particular religions but sensibly integrate religious, mystical, or spiritual ideas, practices, and related objects into their everyday lives as part of their customs without a clear awareness of the

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<sup>182</sup> Multiple answers were allowed.

<sup>183</sup> The Corporation uses the same questions for the survey conducted once in every five years.

origins of these ideas and practices (Lewis, 2018: 334; Manabe, 2008; Nishi, 2009: 73; Shimazono, 2007; Shimizu, 2016: 154-155).

The syncretism or polytheism discussed above may still not be recognised as their ‘religious’ tendencies by the people of Japan themselves, even though their seasonal events or activities and everyday greetings have originated from religious practices. At some point in the past, these became their customary seasonal activities (Lewis, 2018: 64). For example, people in Japan may well visit a shrine or temple on a new year’s day, do *Setsubun*,<sup>184</sup> where people throw beans to get rid of evil spirits from their homes on 3 February, take part in St. Valentine’s Day soon after that, visit graveyards in the middle of August which is called ‘*o-bon*’ to welcome deceased ancestors’ souls coming back to ‘this world’ from ‘the otherworld’, celebrate the *Shichi-go-san* on 15 November to purify children who reached those ages of seven, five or three in that year,<sup>185</sup> decorate home with a Christmas tree and eat a cake on 25 December, and prepare for a new year’s celebration by cleaning up the house and putting various New Year’s decorations including safety charms such as paper streamers from Shrine on 31 December (Lewis, 2018; Sasaki, 1996; Sugawara, 2003).

Not only these seasonal activities, their daily greetings such as “*tadaima*”,<sup>186</sup> “*okaerinasai, otsukaresama-deshita*”,<sup>187</sup> “*itadakimasu*”,<sup>188</sup> and “*gochisousama-deshita*”<sup>189</sup> also originated from Buddhism (Rambelli, 2010). These greetings are claimed to have the “sense of gratitude and contrition and related devotional practices purify the mind from afflictions” (Rambelli, 2010: 68 by citing Taniguchi, 2002: 8). For most people in Japan, these are simply everyday greetings which they use as a common courtesy, and those greetings are no longer attached to religious practice. By participating in those activities or simply following the everyday customs in Japan, the people of the country do not neglect and still respect religious or similar sacred doctrines as well as their charms and objects although they often declare they do not follow any religion.

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<sup>184</sup> The Japanese translation of *setsubun* is 節分.

<sup>185</sup> The Japanese translation of the *Shichi-go-san* is 七五三, each letter means seven, five and three.

<sup>186</sup> The Japanese translation is ただいま, meaning ‘I am back’.

<sup>187</sup> The Japanese translation is おかえりなさい, お疲れさまでした, meaning ‘welcome back, you must be tired from the day’.

<sup>188</sup> The Japanese translation is いただきます, meaning ‘thank you for the meal’.

<sup>189</sup> The Japanese translation is ごちそうさまでした, meaning ‘it was a good meal’.



As discussed in Chapter 5, although some may welcome the application of spirituality, which is translated as the transliterated spirituality or otherwise, in their context of mediation, some of the population will be confused and mistake such an application of those terms for faith-based mediation due to their, albeit ambiguous for the majority, conscious or ambiguous recognition of religions or even unrecognition of them (Nakamura, 2012). This is especially problematic in a society like Japan where the context-bound meanings of the transliterated spiritual and spirituality have only vaguely been recognised by the population (Horie, 2018; Nakamura, 2012).

Tsuruwaka and Okayasu (2001), whose research analysed spiritual care offered by English speaking health professionals such as medical doctors, nurses, chaplains and social workers, discovered the English term spiritual is used interchangeably with 'religious' in that field and point out the danger of the Japanese professionals of the same field using the term by way of transliteration unless the Japanese meaning included religiosity in its definition. As reflected in those precepts generated in Chapter 3, those English terms can be used in conjunction with religiosity in the context of mediation. However, it is not always the case in the mediation context. In the Japanese-speaking mediation context in which the meanings of the transliterated spiritual or spirituality and religions are both equivocal, the status quo of applying the transliteration to describe the important elements of mediation practice risks undermining professional credibility due to the vague, context-bound meanings at the same time as confusing Japanese speaking mediators as well as clients.

The findings of the present thesis allow the mediators or scholars of the country to explain the meanings of the English terms spiritual and spirituality used by at least Gold (1993 and 2003) and Umbreit (1997 and 2001) in the mediation context. However, as discussed in this subsection, using the transliterated terms still persists as a risk of transforming all mediation described by those terms into a faith-based mediation model due to vagueness in their binary classification as being either religious or non-religious. The people of Japan seemingly have lost, or possibly have failed to develop, their means to judge what religions are. Nakamura (2012) describes the reason why their religious consciousness has been deeply embedded in their everyday customs without practising particular institutionalised religion

as that their origin of religiosity is in animism in the *Jōmon* period or worship of ancestors in the *Yayoi* period.<sup>190</sup>

Even so, however, their equivocal religious awareness in the binary classification of whether it is religious or non-religious still remains in the present day. Such an historical research is important, yet the findings would not change the current situation which the Japanese-speaking mediation faces as a result of introducing transliterated spirituality. When the notion of using spirituality in the context of Japanese-speaking mediation is presented without clarifying the meanings of the transliterated spirituality, the majority of people, both mediators and clients, still rely on their own vague concepts of being religious or non-religious in addition to their also vague, context-bound meanings of transliterated spirituality.

While some transliterated spiritualities made the clear dissociation or kept distance from religions, both traditional and new religions as seen in Chapter 2, the close analyses in the present thesis revealed a strong association in the context of mediation between the term and institutionalised religions due to faith-based mediation model although on other occasions such an association is not always present.<sup>191</sup> Those variances in the relationship between religions and spirituality used in the mediation context were due to different understandings and needs arising in the mediation context where religions can create, or already is, the cause of the dispute.

However, based on the findings of the present thesis thus far, the relationship between the term and religions in the Japanese language negatively impacts on people's understandings and perceptions. More specifically, the currently applied translations for the English terms spiritual and spirituality used in the context of mediation confuse the audiences regarding the nature of the mediation practice. The term *seishin* may resemble mediation and therapies while the transliterated spirituality distorts the boundaries between Japan's peacebuilding, religious studies and mediation. These points are in addition to the already identified inadequacy of *seishin* as a translation for the English term spirituality.

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<sup>190</sup> The Japanese translation of the *Jōmon* and *Yayoi* periods are respectively 縄文 and 弥生.

<sup>191</sup> To be precise, the analyses in Chapter 3 showed that some non-indigenous mediators distinguished spirituality from institutionalised religions, and indigenous mediation had not even incorporated such a word, religion, into their spirituality because they did not have such a word.

Transliterated spirituality is considered as a new, merging term of both *seishin* and *reisei* (Kashio, 2012). However, in fields such as education, psychiatry, psychology, psychotherapy and religious studies, transliterated spirituality has been used as a synonym of *reisei* (Horie, 2018; Matsumoto, 2016). In addition, the revitalisation of *reisei* by fading the frequent use of transliterated spirituality since the 2010s is also identified by Horie (2018). The term *reisei* may not promise the perfect translation, either. The present thesis thus requires undertaking some balancing exercises over the appropriateness of each candidate term because of the discovered controversies brought by the other two terms to the Japanese-speaking mediation practice. In order to do so, the next section discusses the suitability of *reisei*, the remaining of the three, as the translation for the English term spirituality used in the mediation contest.

### 6.3 Examining the suitability of *reisei*

By unfolding the term *reisei*, this section considers in light of the eight precepts whether the term can be the better suited Japanese translation for the English term of spirituality used by Lois Gold and Mark S. Umbreit in the mediation context.

The Japanese scholars of Spirituality argued the meanings of *reisei* taken over by the transliterated spirituality due to the letter *rei* (霊) (Horie, 2018; Kasai, 2003).<sup>192</sup> This letter is also used in Japanese words to mean such as soul and spirits, ghost or supernatural being, demon, apparition (Kasai, 2003), and those Japanese words have long been used in religions (Kirita, 2007). Because of this letter, the term *reisei* has also become something associated with ‘the other-worldly’ as a result (Ando, 2012; Horie, 2009; Ito, Kashio, and Yumiyama, 2004; and Kasai, 2003).

The incorporeal connotation of the letter *rei* (霊) has eventually become not preferred due to incidents such as those caused by the Aum Shinrikyo in 1995 (Horie, 2009).<sup>193</sup> Japanese scholars such as Horie (2007), Nakamura (2012), Sakurai (2009 and 2012) and Shimazono (2012) tend to refer to the incidents caused by those cult groups in Japan, yet there were

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<sup>192</sup> To reiterate, the meaning of this letter is something incorporeal, the supernatural and otherworldliness associated with religions (Horie, 2018; Kasai, 2003).

<sup>193</sup> As discussed in Chapter 2.

incidents caused by religions overseas as well. All of those major incidents such as the Iranian Revolution of 1979, the Gulf War between 1990 to 1991, or the attack on the World Trade Centre on 11 September 2001 were broadcasted and reported through media in Japan. Around this period, the transliterated 'spiritual boom' occurred in the country. As discussed in Chapter 2, there were social icons which used transliterated spirituality. The invasion of transliterated spirituality in the areas which traditionally used those words containing the letter *rei* (霊) occurred simultaneously as those words were being avoided and replaced with transliterated spirituality (Ando, 2012; Horie, 2007 and 2019).

According to Horie (2018) and Kirita (2007), the term *reisei* has not been so frequently used in both the daily and academic Japanese languages until recently. Indeed, Chapter 1 illustrated some examples of translations which did not use the term *reisei* to mean the English spirituality (namely, as seen in Fujioka, 2007; Sakauchi, 1997; and Shimazono, 2010 and 2012b). This unfamiliarity with the term brings both advantage and disadvantage to the Japanese-speaking mediation context when it is used. As seen in Chapter 3, the meaning of spirituality used in the context of some indigenous mediation did include contacting the spirits of dead. In the Japanese-speaking mediation context, thus, the meanings of the letter *rei* (霊) in *reisei* may more accurately reflect what those mediators mean by the English term spirituality.

Without doubt, the difficulty of putting what was described by the transliterated spirituality into one category of '*reisei*' is stressed although the English term spirituality was admitted as being often translated as *reisei* (Nakamura, 2012; see for a similar argument, Tazaki, Matsuda, and Nakane, 2001 and 2002). As shown in Chapter 1 and 2, transliterated spirituality bears various meanings, and such an opinion reflects the nature of transliterated spirituality. However, the argument in this section is whether the term *reisei* can better translate the English term spirituality used in the context of mediation and not whether the term takes over the transliterated spirituality in all the areas in which transliterated spirituality is already used.

In order to further argue the suitability of the term *reisei* as a Japanese translation for the English term spirituality limiting to the context of mediation, the following sections discuss how Daisetz Suzuki understood and used the term *reisei*, the meaning of the term as

intended by Suzuki (1944/1975) and whether the term can be used in light of the eight precepts generated in Chapter 3.

### 6.3.1 Daisetz Suzuki and *reisei*

Daisetz Suzuki used the term *reisei* in his book title, *Nihonteki Reisei*, which was published in 1944 and translated to *Japanese Spirituality* in the English language in 1972. This translation of *reisei* to spirituality is described as one of his contributions (Kasai, 2003), yet Daisetz Suzuki died in 1966 and did not translate his title to English by himself. Suzuki who translated Swedenborg's four books from English to Japanese used the term *reisei* to translate 'spirituality' in those translation (Takahashi, 2003), hence, he certainly knew the term spirituality can be *reisei* in Japanese. Nonetheless, an analysis of whether the Japanese term *reisei* can be used to translate the English spiritual or spirituality in the context of mediation, does not argue Suzuki (1944) already knew what was explained by the terms spiritual or spirituality in the context because Suzuki's own ideals and arguments even changed at different times as seen in his different publications (Yokota, 2018).<sup>194</sup>

Suzuki's arguments since his speech in London in 1912 (Yoshinaga, 2007) to his late work such as *Shukyo to Gendai Seikatsu* (Suzuki, 1958),<sup>195</sup> had not changed much: deep concerns over Japanese people losing faiths or identity (Okajima, 2009). However, his views towards the soul seem to have been changed over time between his first publication, *Shin Shukyoron* in 1896 to *Nihon no Reiseika* in 1948 (Takahashi, 2003).<sup>196</sup> One such influencer was Swedenborg (Okajima, 2009). Suzuki's arguments include his variances in identifying whether the soul exists. While Suzuki (1896) denied such an existence, he (1913: 42-44) translated Swedenborg's soul as *reisei*. In *Swedenborg* (Suzuki, 1913: 288), ruby characters of the transliterated soul in katakana letters were put by the Japanese characters of *reisei* (靈性). In Japanese, 'soul' is *reikon* (靈魂) or *tamashii* (魂).

Suzuki certainly knew these words and distinguished them from the term *reisei* in his publications (see, for example, Suzuki, 1944/1972: 13). Admittedly there were significant influences from Swedenborg on Suzuki, yet his published translation or opinions did not

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<sup>194</sup> Yokota (2018) pointed out World War II might have pressurised Suzuki differently by making comparisons between his publications during and then in the post war periods.

<sup>195</sup> The Japanese translation is 宗教と現代生活.

<sup>196</sup> The Japanese translation respectively are 新宗教論 and 日本の靈性化.

make him lose his own arguments as seen in Suzuki's translation of one title of Swedenborg (*Divine Love and Wisdom*) to 'Divine Wisdom and Love' in Japanese. This mistranslation strongly reflected his opinions over the original publication. The aforementioned ruby characters thus highlighted his will to make his readers understand that the term *reisei* in his translation of *Swedenborg* can mean 'soul' in English language.

Takahashi (2003) and Nasu (2016) explain this intentional mistranslation of the English word 'soul' as Suzuki showing some consideration for other fellow Buddhists, who read in Japanese and do not recognise soul, so they do not misunderstand the contents of Swedenborg. For example, as seen in Dōgen's 'Bendōwa' in *Shōbōgenzō* (Nearman, translated: 2007),<sup>197</sup> Buddhism does not recognise such an eternal, spiritual existence. Suzuki's ruby characters of the transliterated soul by 靈性 (*reisei*) might, therefore, appear to be sensational.<sup>198</sup> It is noteworthy here that Suzuki (1955) published *Mysticism: Christian and Buddhist* originally in Japanese and translated in English in 1957, and thus the question arises whether Suzuki's *reisei* in his 1972 publication connotes mysticism.

Furthermore, another important point is the fact that his *reisei* has been translated as spirituality in English and also used both academically and professionally, although not generally.<sup>199</sup> There is another word, *dōshin*, which is used by Ohsui Arai and is also translated as spirituality in English (Nasu, 2016).<sup>200</sup> Nasu (2016) compared *reisei* by Suzuki and *dōshin* by Arai, who was also strongly influenced by Swedenborg's theology yet discussed his *dōshin* concept based on Christianity. She (2016: 42) concluded that both Suzuki and Arai share common, fundamental understandings of 'spirituality', which is the universal truth hidden in the core of inner quality of human beings.

Thus, both *reisei* and *dōshin* are the words which mean a universal truth as well as the realisation of the truth; both are embedded in the inner quality of human beings (Nasu, 2016: 30 and 42). Reaching spiritual evolution can be possible by awakening what is called either *reisei* or *dōshin* through the individual's self-improvement (Nasu, 2016: 31). Both

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<sup>197</sup> The Japanese translation are respectively 道元, 辨道和, 正法眼藏.

<sup>198</sup> As many other scholars, Suzuki does not remain free from academic criticisms (see for instance, Kamata, 2006; Sharf 1993).

<sup>199</sup> As discussed in Chapter 1 and 2.

<sup>200</sup> The Japanese translation of *dōshin* is 道心.

Suzuki and Arai also consider such individual self-improvement to awaken *reisei* or *dōshin* contributes to the societal improvement as a result, and can be achieved through practising religions, although Arai's argument was Christianity and Suzuki's Zen Buddhism (Nasu, 2016: 30-31). Arai's *dōshin* has been actively researched academically only since 2000 when his books, written in the late 1890s, were finally collected and published (Nasu, 2016). Arai's *dōshin* is thus still a rather unfamiliar word. Suzuki's *reisei* should be the starting point for the analyses of the present thesis due to its familiarity among the academics and scholars, yet it is important to mention Arai's *dōshin* in this section to show the concept expressed and summarised by the term *reisei* is not something limited to Zen Buddhism.

Over 70 years since the original publication of *Japanese Spirituality*, the term, *reisei*, is now widely taken over by the transliterated spirituality, which appeared in the Japanese language in the late 1970s (Shimazono, 2012). Transliterated spirituality has been used in such a way to lose people's focus on what it means exactly owing the facts the term has born multiple meanings rather than a replacement of *reisei*, which still remains an unfamiliar word for the general public. As a result, the analyses and discussions in the present thesis so far revealed that mediation as a profession in Japan is at risk of becoming a faith-based mediation because of the perplexing transliteration applied as well as the people's simplistic or extreme judgements based on whether it is being religious or not. To this extent, Arai's *dōshin* falls outside of the scope of the present research and needs not to be considered in the present thesis.

Taking the discussions so far in this subsection, then the application of *reisei* as a translation for the English term spirituality in the context of mediation may not be desirable for three reasons. Firstly, as seen in Chapter 4, mysticism does not apply to the experiences expressed using the terms spiritual or spirituality by Gold (1993 and 2003) and Umbreit (1997 and 2001) in the mediation context.<sup>201</sup> Secondly, in indigenous mediation, the notion of spirituality exists yet there was traditionally no word for 'religion' in their cultures (Shook and Kwan, 1987). Third and finally, the English terms spiritual or spirituality used in the context of mediation do not necessarily mean to be religious. This point was evident in both Gold (1993 and 2003) and Umbreit (1997 and 2001) whose mediation practices are not categorised as

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<sup>201</sup> Please also see Abe (2015) for discussing mysticism in both Christianity and Buddhism.

faith-based mediation. However, by other authors, these terms mean religious, can be interchangeable with religions, and overlap with religions.<sup>202</sup>

Bearing in mind all those points, Suzuki's *reisei* needs to be unfolded by anchoring the following three concerns. Firstly, does *reisei* connote mysticism? Secondly, is the use restricted to religions? Thirdly, what is the relationship to religions?

### 6.3.2 What is *reisei*?

In *Japanese Spirituality*, Suzuki (1944/1972) first clarifies the differences between *seishin* and *reisei*. In his own words (Suzuki, 1944/1972: 14-15): *seishin* does not contain something material because substance cannot contain *seishin*, while *reisei* does contain and harmonise both of *seishin* and material or substance. *Seishin* is considered as equivalent to psyche, spirit or mind; *reisei* is described as encompassing the elements not included in *seishin* and having a certain degree of universality although subject to the cultural advancements (Suzuki, 1944/1972: 12-14 and 17). When awakening *reisei*, the dualism caused by *seishin* disappears and *seishin* can function in a true sense such as to feel, think, will and act.

This moment of awakening *reisei*, which is as a result of ceasing the dualistic world's rivalries and conciliating and fraternising the *seishin* and material worlds, was described as an awakening of religious consciousness. This dissolution of dualism by awakening *reisei* was described as religion; without *reisei*, religion is thus not fully understood (Suzuki, 1944/1972: 16-17). Suzuki distinguishes and separates *reisei* and religion although *reisei* functions as a vital role to understanding and practising religion (Suzuki, 1944/1972: 15). "The intuitive power of *reisei* is based on a higher plane than that of *seishin*. *Seishin*'s will power is not able to transcend the self unless it relies upon the support of *reisei*" (Suzuki, 1944/1972: 15). Without awakening *reisei*, one can still understand religion with one's *seishin* which would not transcend the self thus may remain only a mere formality of religion.

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<sup>202</sup> Nakagawa (2012) reports religious education began using the term spirituality by considering that the two, holistic and religious education, both exist on a spectrum and are indispensable, even though spirituality in education is something different from religious education. Shimazono (2010) put forward the same account on the relationship between religion and spirituality in relation to arguing the 're-sacralisation' in modern Japan. However, Nakamura (2012), contrary to Shimazono (2012), pointed out that the difficulty of putting what was described by the transliterated spirituality into one category of '*reisei*' although he admitted the English term spirituality was often translated as *reisei* (see for a similar argument, Tazaki, Matsuda, and Nakane, 2001 and 2002).



Awakening *reisei* is said to be the same for all humans yet the very process after awakening it differs depending on how each *seishin* functions regardless of their nationalities (Suzuki, 1944/1972: 16). Awakening *reisei* is an individual, private experience. Although Suzuki indeed recognises the influences from *Zen* and Buddhism which were imported from the continent as a framework in which people's *reisei* were awoken (Suzuki, 1944/1972: 18), separating the awakening of *reisei* and the external means to create such a framework for the awakening must be stressed. *Reisei*, which all people already have within themselves, and the means to express it, are dispensable.

Although Suzuki (1944/1972: 94) admits nothing much could be said about Japanese spirituality without Buddhism, awakening Japanese spirituality as a result of unexpectedly coming face-to-face with Buddhism was assimilated to the growth of plants on earth. Buddhism, a plant, grew in Japan because of its environmental factor, Japanese spirituality (Suzuki, 1944/1972: 94). Buddhism in Japan is a borrowed shape of Japanese spirituality. However, this shape is specifically formed in Japan by Japanese spirituality and must be distinguished from Buddhism available in China or India, where grow their own Buddhism (Suzuki, 1944/1972: 63-66).<sup>203</sup> Without the environmental factors, the plants will not survive; yet that fact does not make the factors create the plants. Both are separated and independently exist.

Suzuki (1944/1972: 19) describes this awakening process of *reisei* as “breaking out of the shell”; “the mother hen pecks from the outside of the shell at the same time as the chick pecks from within”. Although it is evident that Suzuki had been under the strong influences of other intellects of religions and philosophies, including Emanuel Swedenborg (Sharf, 2005; Yoshinaga, 2002), that does not convert his arguments of *Japanese Spirituality* into religious or mystical ones, either. In Suzuki's own words, *reisei* and religious consciousness can be the same except that “misconceptions tend to arise when we speak of religion” because “Japanese do not seem to have a very profound understanding when it comes to religion” (Suzuki, 1944/1972: 15). Suzuki (1944/1972: 15) continues, “[t]hey think of it as another name for superstition, or that religious belief can support something, anything,

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<sup>203</sup> Please see Suzuki's (1972) helpful assimilation of Buddhism grown in Japan and other countries to planting foreign flowers overseas such as morning glory, tulips, or chrysanthemums, which originally came from China to Japan and then were exported to European countries to grow in their lands, from pages 59-61 of *Japanese Spirituality*.

which has nothing to do with religions.” What reflected religious consciousness is their lifestyles (Suzuki, 1944/1972: 18-19), not a moment of sudden enlightenment.

Now, the three points led to this section regarding spirituality in the mediation context should be discussed based on the analyses of Suzuki’s *reisei* made thus far. The first point, whether mysticism plays an important role in Suzuki’s *reisei*, and the third on the relationship between religions and *reisei*, seem to have already been negated by Suzuki’s own words as cited above. By awakening *reisei*, the cessation of dualism occurs. However, it is embedded in people’s everyday lifestyles, not a moment of sudden enlightenment. When attending mediation, no participant including the mediator has physically or mentally ‘gone off’ anywhere in such a way as to lose consciousness by being bathed in light. In analysing mysticism and the eight precepts described by the terms spiritual or spirituality in the mediation context in Chapter 5, such mystic experiences are least likely, if ever at all, to occur during mediation sessions. What the eight precepts describe is based on Gold and Umbreit’s past mediation experiences that their clients changed their ways of thinking and as a result settled their issues in the mediation sessions.

In other words, those expressions shared by the mediators using those terms spiritual or spirituality are not to pursue the claim of dualism but to indicate the exact moment of the contradiction between *seishin* and substance as illustrated by Suzuki (1944/1972: 15). The awakening of *reisei* is when “another world opens up on the far side of the world of *seishin* and substance, where the two of them must come to harmony, though still remaining mutually contradictory” (Suzuki, 1944/1972: 15). In mediation sessions, that moment seems to occur at the time of settlement. “Spirituality reveres concreteness highest of all” (Suzuki, 1944/1972: 68), and the awakening spirituality requires experiencing the weight of karma (Suzuki, 1944/1972: 75). This would be the reason who mediated matters.

The second point, whether *reisei* would apply in the communities where no religion exists or existed before, is even better clarified by Suzuki (1944/1972: 16) who claims that the awakening to *reisei* is subject to the advancements of each individual and not promised or limited to the citizens of developed countries. In fact, he (1944/1972: 27) wrote that, “[t]he ancient Japanese, a simple, natural, and child-like people, really had no religion. [When] religious impulses for the first time stirred their [*reisei*], and the awakening of Japanese

spirituality began faintly to appear”. This of course does not mean that people without a word for religion are those who are described as ‘simple, natural, and child-like’ by Suzuki (1944/1972: 27). Spirituality, or *reisei*, of the ancient Japanese who did not have strong religious consciousness was not awoken (Suzuki, 1944/1972: 28).

As seen in Chapter 3, religions are not the only way to awaken human’s *reisei*, or spirituality. When people have strong religious consciousness, their spirituality is awakened so long as their religious consciousness or religiosity is something to provide them with an opportunity of reaching their own *reisei* by dissolving the rivalry between one’s *seishin* and substance. The difficulty is, in many cases, religion is concerned with formality, such as being institutionalised and systematised (Suzuki, 1944/1972: 17; Smith, 2010). Hence, people without a word religion can well experience the very moment of awakening *reisei* where the word religion itself only means something categorised as a mere formality. This has been evidenced by those indigenous mediators whose practices were described as spiritual (Barnes, 1994; Huber, 1993; Shook and Kwan, 1987).

Religious experiences can correspond to the awakening *reisei*; without reaching one’s *reisei*, religion corrupts to a bare formality. As shown in Barnes (1994), Goldberg and Blancke (2012) and Huber (1993), spirituality used in indigenous mediations are now used in non-indigenous mediation sessions. As seen from this argument as well, the clarification to the third point has already been evident; Suzuki’s *reisei* was clearly separated and distinguished from religions.

So far, this subsection showed Suzuki’s (1944/1972) meaning of the term *reisei*. The next subsection articulates this term considering the eight core precepts generated in Chapter 3. The discussions of the next section also consider the term’s usages in more contemporary Japan, which is out of reach of Suzuki himself who is now deceased.

### **6.3.3 *Reisei* considered in light of the eight core precepts**

Suzuki’s *reisei* indicates something internal of all humans, although he described the flourishing of Japanese people’s *reisei* was by meeting Buddhism. The distinction of each *reisei* can thus be possible by observing external factors such as the same Buddhism in different countries influencing each people’s *reisei* differently. Regarding the relationship between religion and *reisei*, Suzuki (1944/1972: 19) metaphorically explained as “the mother

hen pecks from the outside of the shell at the same time the chick pecks from within". The first precept generated in Chapter 3 can be explained by using *reisei*. In the second precept, the complex relationships between the English term spirituality and religions in the context of mediation were revealed. The condition suggested by Suzuki (1944/1972) for those two to be in such a relationship was dependant on how people understand religions. This can also be applied to the revealed relationships in the context of mediation.

*Reisei*, once awakened, represents how people live (Suzuki, 1944/1972: 18-19); it influences one's external relationship with others. In the context of mediation in which spirituality is used to describe the practice, who mediates often matters. Suzuki (1944/1972) also argued Prince Shōtoku's harmony cannot be penetrated unless each achieved awakening own *reisei* which is free from the self or ego and can be transmitted semantically from one person to another (Suzuki, 1944/1972: 16). *Reisei* also fulfils the third precept of who mediates matters due to their internal relationship with themselves which influences their external one with others. Unless one experiences such a tough time of suffering in his or her life, one cannot realise one's own spirituality (Suzuki, 1944/1972: 75). Religious practices are a mere opportunity for such *reisei* to 'ignite' and the opportunity does not have to be religious practices (Suzuki, 1944/1972: 18). Hence, mediators are suggested to have experienced struggles, griefs, or disputes in their own lives to understand the importance of the connectedness (Gold, 1993 and 2003; Umbreit, 1997 and 2001).

The fourth precept referred to the influences given by the mediator's presence to their clients both semantically and non-semantically. In some indigenous mediation, such influences can be made by accessing their ancestry spirits through the elderly mediator's spiritual power. The letter *rei* (霊) connotes 'ghost' or 'supernatural being' (Ando, 2012; Horie, 2009 and 2018; Ito, Kashio, and Yumiyama, 2004; and Kasai, 2003), and thus, the concept may not be so unfamiliar and better expressed by the term *reisei* setting aside the point of whether people agree, understand or support such existence when it is explained.

Furthermore, people in Japan may not require much additional explanation as to how one's being may influence others without using direct communications. As discussed in Chapter 3, there were experiments conducted by Emoto and others on how language conveys our thoughts, either semantically, non-semantically such as in writing or even at a distance

(Emoto, 2001/1999; Radin, 2006 and 2008; Takao et al. 2006).<sup>204</sup> In other words, Japanese society can accept, even welcome, such claims, as something important and worth including in the textbooks to educate children of the country even if the research results have still have room for scientific debates. Even Suzuki (1944/1972: 197) claims that “[i]f one's spiritual insight is deep enough he cannot help but try to express that experience in words”. Thus, the scientific trustworthiness of the claims made in the fourth precept would not make much difference to the Japanese-speaking mediation context.

The fifth precept of metaphorically referring the sense of shifting to a higher level, although it was only found in some of the non-indigenous mediators' claims, was also described by the awakening of *reisei*. As referred to above, the awakening of *reisei* is expressed by Suzuki as “based on a higher plane than that of *seishin*” (Suzuki, 1944/1972: 15). At the moment of wakening *reisei*, it requires a higher plane than what *seishin* has. Here, an emphasis must be made on the point of those mediators not describing the actual awakening of their spirituality during the mediation sessions; they used an expression of shifting to a higher level as a description of how they felt as having happened with their disputing clients at the moment of settlement in the sessions. Anyone who experienced such a ‘higher plane’ before could have used this expression to assimilate the mediation experience.

The issue with applying *reisei* as a translation of spirituality described by mediators is in the sixth, seventh, and eighth precepts because Suzuki (1944/1972) did not express how one would ‘feel’ when awakening his or her *reisei*. However, in discussing how *reisei* awakens and operates, Suzuki (1944/1972: 97-100) described that *reisei* is a name for an operation which people can feel, but has no existence anywhere, and is something other than one's senses, emotions, wills, and intellect that is a slave of the will,<sup>205</sup> but there is no precise delineation between *reisei* and those functions.

As seen in Chapter 3, spirituality in the mediation context was observed in the safe and sacred space and such a sense of sacredness or holiness can, but not necessarily, be religious ones. Speaking about the Japanese *reisei* in the Pure Land Shin sect context, Suzuki (1944/1972:102-103) continued that:

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<sup>204</sup> What is more significant is the fact that Emoto's experiments have been used in the textbooks of moral, not science, education for the compulsory school education years since the end of the 1990s (Kikuchi, 2016; see also, Kasai, 2004).

<sup>205</sup> For the detailed discussions on the relationship between the will and intellect, please read Suzuki (1946 and 1948).

*[Unlike the intelligentsia, those of the soil whose lives lived within reality were not concerned with the general feeling of uneasiness in society.] Their spirituality tried to grasp something fundamental outside the existing emotional life and insight and there to seek composure of mind. They were unable to sustain an interest in complicated argument, science, class structure, and the like. They were unceasing in their search for something capable of working much more directly and strongly on their daily lives. They might not have felt such a need consciously, but there seems little doubt they felt anxiety. A sensitive religious spirit could not help but notice this kind of uneasiness and anxiety rippling through the social consciousness. A heart spiritually pure and lucid and filled with love would have to be extremely sensitive to such a mood. [...] The possessor of a deep and keen spirituality will likewise grasp directly and immediately those occasional shifts in the heart and mind of man. [...] A great individual spirit may be said to be a mirror in which the universal spirit, the transcendent spirit, is reflected. We may say that by viewing the working of the superior individual spirit it is possible to see the working of the transcendent spirit. [...] Speculations and logic come afterwards, the first experience must be Absolute Love itself.*

Experiencing this Absolute Love before learning speculations and logic hence denying intellectuality is the awakening of one's *reisei* (Suzuki, 1944/1972: 151), and this awakened state was described as shifts. Those who have their own *reisei* awakened by such a denial of intellectuality and also as a result of sustained vicissitudes in the process not only learn themselves but also others as well (Suzuki, 1944/1972: 152). In this sense, mediators and their clients can be in an equal position. Furthermore, as above, the transcendent or universal spirit reflected on the awakened person experienced Absolute Love and, as a result, can be sensible to other's feelings. Suzuki (1944/1972: 152) called those who have awakened their spirituality or *reisei*, saints. The saints' state of awakening *reisei* with almost no fear or anxiety due to experiencing Absolute Love indicates sacredness, if not safeness. Nonetheless, his *reisei* is independent from religions as discussed earlier in this subsection.

The analyses of the suitability of *reisei* in light of the eight precepts generated in Chapter 3 now revealed the term *reisei* conveys better as a translation of the English term spirituality to be used in the context of Japanese-speaking mediation. However, the notion described by the English terms spiritual and spirituality are brought to full bloom in the country's mediation context depending on the *reisei* of people in the country as Suzuki (1944/1972) described by saying Buddhism bloomed differently depending on each country. In other words, the very same notion of using spirituality in the context of mediation may grow to be

different in the Japanese-speaking mediation context from what has been originally described by Gold (1993 and 2003) and Umbreit (1997 and 2001) in the English-speaking mediation context. This point will only be observed by the passing of more time.

Before concluding this chapter, the next section discusses the potential consequences should the term *reisei* be applied as a translation for the English term spirituality in the context of Japanese-speaking mediation.

## 6.4 Is *reisei* a better translation of ‘spirituality’ in the context of Japanese-speaking mediation?

The incorporeal connotation of the letter, *rei* (霊), has already been repeated throughout the present thesis. This would work as an advantage when articulating the meanings of spirituality used by Gold (1993 and 2003) and Umbreit (1997 and 2001) who did not discriminate spiritualities between non-indigenous and indigenous mediation. However, such a connotation could cause some unnecessary reactions among Japanese-speaking mediators or clients because mediation as one of ADR methods in Japan has been a law dominant field which is not expected to be incorporeal or otherworldly.

The term *reisei* has not been used often as a daily Japanese word and the audience may not have a concrete idea about what this term means (Horie, 2018; Kirita, 2007). Unfamiliarity with the term *reisei* when used in the Japanese-speaking mediation context would benefit the audiences who then require further information to clarify what it means. As discussed in Chapter 1 and 2, the transliterated spirituality has invaded into so many areas and fields in and outside of academia. As a result, people in Japan have been exposed to the different meanings of the same transliterated spirituality and may have already developed their own definition of the term. As Chapter 3 showed, the English term spirituality also requires from the users their precise descriptions of what it means. The meanings of the English term spirituality when used in the context of mediation vary depending on the user because the term was used as a component to form each different argument and opinion by professional mediators.

There are also other fields using the term *reisei* together with the transliterated spirituality despite the unfamiliarity with *reisei* and the equivocal meanings of the transliterated spirituality existing in the audience. As mentioned at the end of the section 6.2, those fields are, but not limited to, education, psychiatry, psychology, psychotherapy and religious studies (Horie, 2018; Matsumoto, 2016). Such an overlap with other fields causes a further issue. Tazaki, Matsuda and Nakane (2001) criticises the application of *reisei* by citing one of their research participants who described this term as indicating a notion which is irrelevant to his or her daily life although its meaning may be guessed because it uses only Japanese *kanji* letters rather than *katakana* letters.<sup>206</sup> The participant felt that being questioned about his or her understanding and awareness toward *reisei*, *seishin*, or the transliterated spirituality itself, was troublesome and tiresome because such questions reminded him or her of the religious groups soliciting new followers nearby his or her university (Tazaki, Matsuda and Nakane, 2001). Despite their research was concerned with those terms in health care professions, the audience is reminded of something religious when applying the term *reisei* regardless of the fields (Kasai, 2003), and it is not hard to imagine those fields includes mediation.

The argument then leads to why the term *reisei* should be better used in the context of mediation. Although the undesirable overlaps with other fields, which already use both *reisei* and transliterated spirituality, were identified in analysing both transliterated spirituality and *reisei*, Japanese speaking mediators can have the opportunity to explain the meaning of *reisei* and its differences from those used in other fields if they need to speak what Lois Gold and Mark S. Umbreit meant by the English terms spiritual and spirituality in the context of mediation in the Japanese language using the term *reisei*.

Gold's (1993 and 2003) healing paradigm which was also applied in Umbreit's (1997 and 2001) humanistic mediation model may be better understood by the transliterated spirituality because transliterated spirituality overlapping areas include psychology and psychotherapy. The sense of strong healing or relevant effects are included when the transliterated spirituality is used. There are spiritual counsellors and therapists (Gaitanidis, 2011; Sakurai, 2012; Ueda, 2014), and anything can be described as the transliterated

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<sup>206</sup> *Kanji* letters such as *rei* (霊) conveys its relevant meanings in a similar manner as symbols while *katakana* only express its phonetical sounds. For example, the transliterated spirituality is written in *katakana* letters and cannot be done with *kanji* because transliteration represents the word has its origin in foreign languages. This point was discussed in Chapter 1.



spiritual from television programmes to motherhood (Gaitanidis, 2011).<sup>207</sup> However, because of those commodification of the transliterated spirituality as a result of the rapid trend of applying the term to anything, the application of the transliterated spirituality implies Japanese-speaking mediation practices are being commercialised and commodified should the transliterated spirituality keep being applied.

This connotation is inaccurate, if not misleading. While the mediators who decided to use those terms wished to stress the importance of spirituality in their mediation experiences, they did not intend to commodify their spirituality. This is also evident from the findings of the present thesis as that spirituality does not create a new mediation model or group some mediators into one category. As discussed in Chapter 3, the English terms spiritual or spirituality were used by mediators in their original publications to describe their arguments, but only as a part or component of them. Albeit the small component can and may indicate something significant and thus was used symbolically, as shown in Chapter 4, it is possible in the context of mediation to describe the similar point without using such a coding (for example, Cobb, 2001, Ishihara, 2017b and Moore, 2014).

By switching to the term *reisei* which is written in *kanji* letters from the transliterated spirituality in *katakana*, Japanese speaking mediators can also emphasise their awareness of social situations regarding the transliterated spirituality used in pop-culture. Furthermore, the term *reisei* also allows them to convey their sincerity towards spirituality used in the Japanese-speaking mediation context. While the term *reisei* is used to translate 'spiritual education' in Japanese and thus can be seen as a product of service in the same way as the transliterated spirituality is, the areas in which the term *reisei* is commodified are much narrower than the transliterated spirituality market. In addition, the overlapping with spiritual education, *reisei kyōiku*, further stresses the use of *reisei* is possible as it can be educated. This explains why spiritual intelligence was discussed as important to improve mediation practice by some mediators such as Goldberg and Blancke (2012) and Hoffman and Wolman (2013) as seen in Chapter 3.

Lastly, in the previous section, the suitability of *seishin* was articulated enough to the level at which it should not be even considered as a candidate word for translating the English

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<sup>207</sup> As discussed in Chapters 1 and 2.

word spirituality. As Suzuki (1944/1972) discussed, *seishin* is at the surface of *reisei* and is ranked at somewhere lower than *reisei*. As Gold (1993 and 2003: 210) stated, what she refers to as spirituality is somewhere deeper in one's psyche. Similarly, Umbreit (1997 and 2001) described the core of his mediation model is to seek a deeper connection by using the language of soul. Their spirituality refers to something deeper than what *seishin* can describe in the Japanese language. More interestingly, their spirituality shifts upwards. It is, according to Suzuki (1944/1972), *reisei*.

Based on the above, the term *reisei* is better suited as a Japanese translation of the English term spirituality used by Gold (1993 and 2003) and Umbreit (1997 and 2001).

## 6.5 Conclusion

This chapter discovered that the term *seishin* does not convey the meaning of the English term spirituality used by Lois Gold and Mark S. Umbreit. The transliterated spirituality can be used for the translation; however, the other areas which use the same transliterated spirituality may distort the professional boundary. The consequences of overlapping with other fields include that spirituality used by these two authors may be perceived as an indication of something religious or non-religious in spite of the user's original intention and that their mediation may be categorised as the same as peacebuilding. By analysing closely what Suzuki (1944/1972) means by the term *reisei*, this term is better suited than transliterated spirituality for the translation of English term spirituality in the context of mediation.

The application of transliterated spirituality appeared in the late 1970s and emerged rapidly around the end of the 1990s but lost its popularity by the end of 2000s (Horie, 2018). The introduction of the English spiritual and spirituality used by Lois Gold and Mark S. Umbreit was made by Fujioka in 2007. This was the time when the transliterated spirituality was blooming fully in so many fields in Japan as though it was about to become an established Japanese word to translate the English term spirituality in the same way as transliterated 'identity' which is also written in *katakana* letters to translate the English term identity (Ando, 2007).

The variances in Fujioka's translation of the English terms spiritual and spirituality might have been due to her specialism which is in dispute resolution and psychology. Fujioka might not have digested the topic on spirituality thoroughly in the English mediation context at such a level to translate these terminologies. Similarly, it may also be easy to criticise Ishihara who did not expand further why she used transliterated spirituality in a parallel to the word love when discussing their importance in the context of Japanese mediation (Kumamoto Jinzai Shinbun, 2012). However, issues with both the English term spirituality and the Japanese equivalent terms should not and cannot be argued so simplistically by blaming it on the Japanese users of the terms.

In fact, Ando (2007) attributes the equivocal, context-bound meanings of the term spirituality to the recent and more frequent, if not selfish (Webster, 2012), uses of the term. Due to their ineffability, those terms tend to be applied rather flexibly, randomly and irregularly, without even considering the term's meanings expressed in the source language. As the transliterated spirituality trend tailed off by failing to establish one meaning across different fields and contexts, more scholars in the late 2010s started using the term *reisei* by replacing the transliterated spirituality.<sup>208</sup> The findings in this chapter also follow this new movement, which Horie (2018) describes as the revitalisation of *kanji*, in the context of Japanese-speaking mediation.

Furthermore, by discussing the suitability of each translation, this chapter also had to deal with tremendous volumes of information and resources on Japan's societal complexities in relation to those three Japanese terms. As revealed in discussing religions and religiosity of people of Japan in this chapter, such a societal background also seems to influence making such multiple choices available to mean 'spirituality'. The Japanese-speaking people's binary classification as being either religious or non-religious may have prevented the development of the terms which contain both religious and non-religious aspects, such as *reisei*. Discussing this point has to yield to the future research for further discussions.

The Japanese-speaking society is sensibly responding to the rapid trend of transliterated spirituality described as a 'spiritual boom' in a rather timely manner (for instance, Gaitanidis, 2011; Horie, 2007 and 2018), probably because they are very much interested in something

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<sup>208</sup> As already discussed in Chapter 1.

spiritual despite the long persistent binary classification. Mediators who work with Japanese-speaking clients should simply describe what they mean by the term *reisei*. What is required more from the mediators working with Japanese-speaking clients is a precise description on how their mediation can be religious or non-religious whatever they try to do by using the term *reisei*. Nonetheless, such discussions are subject to the binary classification and no one can predict the outcome of the discussion. Some may end up conducting their mediation as faith-based despite their original intention was different; others may lose their prospective clients unintentionally as a result of the discussion being judged by the binary-classification. However, omitting such a description intentionally will result in miscommunication, which cause more serious issues to the paid, professional services of mediation.

If the notion of using spirituality in the mediation context brings such extra tasks to mediators working in the Japanese-speaking mediation context, what are the contributions of expressing the notion in Japanese? The next chapter articulates both contributions and controversies by vocalising the notion of using spirituality in the Japanese-speaking mediation context.

# 7 Aftermath of introducing the notion to the Japanese-speaking mediation context

## 7.1 Introduction

Based on the situation of Japan revealed in the present thesis, this chapter articulates the contributions and controversies brought about by the translated notion in the context of Japanese-speaking mediation. Through such discussions, this chapter aims at explicitly illustrating the consequences of expressing the notion by the terms 'spiritual' or 'spirituality' in the context of Japanese-speaking mediation.

## 7.2 Controversies

### 7.2.1 Distorted boundaries between mediation and other fields

The meanings of both transliterated spirituality and *reisei* are vaguely understood, if at all, by the general public of Japan (Horie, 2018; Kirita, 2007). The former is due to the term's frequent use regardless of the fields in which it is applied and fails to establish its meaning (Ando, 2007). The latter is because the term *reisei* has tended to be used only in fields such as education, psychology and psychotherapy and religious studies as a rather technical word.

The origin of the term *reisei* is from Suzuki (1944/1972) whose arguments had long been considered as fixed, or limited, to Buddhism. It was only during a recent academic movement wherein the term *reisei* started gaining recognition due to the sudden increase in the numbers of academic disciplines in which transliterated spirituality has been used and started being replaced with the term *reisei* (Kirita, 2007). Without this rapid trend of transliterated spirituality, the term *reisei* would not have gained much attention in the country, either.

As a result of choosing transliteration to translate those English terms, Japanese-speaking mediation is exposed to perhaps unnecessary issues and difficulties. The mediation practice, which applies transliterated spirituality, cannot consequently avoid overlapping with other fields such as the peacebuilding practice, psychotherapy and counselling. Without explaining the meanings of the idea expressed by transliterated spirituality used in the context of

mediation, the transliterated spirituality fails to distinguish mediation from other fields. Further to that confusion, Japanese-speaking people's binary classification also risks all mediation practice described by the transliterated term becoming a faith-based mediation, which is not accurate. However, by explaining what a mediator means by transliterated spirituality, or the term *reisei*, a mediator is sharing the idea with his or her clients. This makes mediation a faith-based mediation. Although such an initiation needs not to be from the mediator, once the notion has been shared and mediation is conducted on that notion, the mediation becomes faith-based (Goldberg, 2016).

Indeed, this research concluded in the previous chapter the term *reisei* would help the profession more appropriately than applying the transliterated spirituality and *seishin* when explaining what 'spirituality' means, as used by Gold (1993 and 2003) and Umbreit (1997 and 2001) in that context. The introduction of the notion by publishing their voices only leaves a very narrow leeway for mediators to avoid being categorised as faith-based mediators and cannot avoid being subject to the binary classification as being either religious or not. In such a situation, using the term *reisei* which was originally used by Daisetz Suzuki in Zen Buddhism may and will sometimes inaccurately lead the judgement of the mediation practice toward being religious.

Furthermore, the term *reisei* still comes with the letter *rei* (霊) and the application of the term overlaps with other professional fields such as Education, Psychiatry, Psychotherapy, Psychology and Religious Studies, in which the term *reisei* has been used together with transliterated spirituality. Such an overlap may cause further confusion to mediation as a profession, to their prospective clients, and to the mediators themselves, albeit that the term *reisei* has a clear origin and definition in Suzuki (1944/1972) as discussed in Chapter 6. In Religious Studies, for example, both transliterated spirituality and *reisei* are used to discuss religiosity in Japanese society.

In such a context, what is implied by the letter *rei* (霊), which means something incorporeal, the supernatural and otherworldliness associated with religions (Horie, 2018; Kasai, 2003), would bring more advantages than disadvantages to its users due to the nature of the discussion. However, in the context of mediation, which is one of the ADR methods, the

application of the term *reisei* may distort the focus of the professional discussion unless the term *reisei* is clearly defined and explained to its audience.

To make things worse, Chapter 5 discovered mediation in Japan has been not only unpopular but also not even considered for use in solving disputes such as one occurring in a neighbourhood. Society may not even recognise the purpose and advantages of mediation, or differences between mediation and litigation due to its unique development in Japan.<sup>209</sup> With such a poor recognition of how mediation is conducted or even what mediation is, the introduction of the notion of using either transliterated spirituality or *reisei* altogether confuses people how mediation works as an independent field which seems already to resemble peacebuilding. Mediators in Japan are still expected being a predominantly legal profession and, thus, certified under the ADR Act 2004; the notion of using spirituality discovered in this research is perplexing and not pertaining to what mediation currently *should* be in Japan, either.

### **7.2.2 Misleading as if offering commodified spirituality in mediation**

Using the terms spiritual or spirituality in the field, or profession, of mediation, may mislead its audiences in the Japanese-speaking mediation context by giving them the impression as if the terms spiritual or spirituality create a certain type of mediation in a commodified form of service.

By using transliterated spirituality, or even replacing it with the term *reisei* in the context of Japanese-speaking mediation, mediation distorts the borderline between other professional fields which offer services labelled by those terms in Japan. As a result, those terms applied in the Japanese-speaking mediation context offer a wrong impression, as if mediation now offers a service tailored as mediation in a similar manner to ‘spiritual’ education developed in Education, or ‘spiritual’ counselling discussed in Psychology and Psychotherapy, or ‘spiritual’ care offered in Health Care. This particularly concerns because of the current situation of the Japanese-speaking mediation context illustrated by Miyatake (2017). She (2017) describes the attitude of the Japanese-speaking users as heteronomous and also argues they thus prefer an authoritative approach, which judges and courts display to

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<sup>209</sup> This was already discussed in Chapter 5.

resolve the issue for them, in third-party dispute intervention including mediation. However, in mediation, the users should be able to settle their issues voluntarily.

However, such an inaccurate understanding or expectation of mediation are not caused by the terms spiritual and spirituality randomly used in the mediation context nor by the applied Japanese translations of those terms carelessly cited in various contexts. What requires more attention is on the societal circumstances of Japan. As discussed in Chapters 2 and 6, the people in the country are interested in something religious or supernatural including fortune-telling and would not lose their interests in something 'spiritual' despite their antipathy toward religious groups or institutionalised religion. Their embedded interests thus seemingly appear in different, flexible forms other than an established form of institutionalised religion. One of the examples is the rapid trend of spirituality of applying the transliterated spiritual or spirituality into almost anything (Gaitanidis, 2011). As a result of that 'spiritual boom', Japanese society was flooded with various commercial products which sold, and still sell, commodified spirituality in various forms (Arimoto, 2011). By using the same terms, mediation can be observed as being a part of such a commodified spirituality service sector, which may apply supernatural powers.

### **7.2.3 The binary classification deters from freedom of expression**

In the context of English-speaking mediation researched in this thesis, the terms spiritual or spirituality form only one component of the whole argument of each and change their meaning depending on each user. Understanding the meaning of this small component, or aspect, of a different argument requires understanding each argument as a whole. The component only bears its meaning depending on the whole argument.

Such an expression, however, may not be taken place freely where the argument is subject to a simple binary classification of whether it is religious or not. So long as this binary classification persists, mediation applying spirituality is judged whether being religious or not. In addition, the judgement is made based on ambiguous recognition of what religions are. This simple division deters both mediators and the users to use the terms spiritual and spirituality in the Japanese-speaking mediation context. As for an example to illustrate this, Umbreit's video lecture, which was used in his training sessions in Japan, does not refer to any of these terms (Ishihara, 2017b) despite his trainings attracted many participants with



their own faith. Ishihara's (2017a) article, which reports how Umbreit's trainings went in Kumamoto, Japan, does not refer any of these terms, either.

While the terms spiritual and spirituality can be omitted and embedded in the whole argument without intervening the contents, the importance of using these terms are nonetheless evident. Those authors discussed in Chapter 3 deliberately chose to use these terms in their published arguments. If these terms are to be subject to the binary classification, professional mediators would have been deterred from expressing their opinions and sharing their experiences freely in the Japanese-speaking mediation context. As the precepts showed, there are aspects in the component expressed by the terms spiritual and spirituality which cannot be so simply divided into either being religious or non-religious.

When the audiences keep applying such a binary classification, the presenters choose other ways to express the same without using these terms. In this way, both the users and their audiences can avoid misinterpretation. As a result, however, mediators only share a limited knowledge and information with the fellow mediators in the Japanese-speaking context by not vocalising what is important. In other words, the vital part expressed by the terms is not visible in the arguments so that the audience may not notice the part. Although this point may not be directly linked to the introduction of the notion using the terms spiritual and spirituality in mediation practice, it is certainly the controversial point resulted from the introduction.

Before moving on to its contributions, this section summarises the controversies brought by the English terms spiritual and spirituality to the Japanese-speaking mediation context. Those terms pose as powerful enough to integrate different fields into one. As a result, the introduction of the idea of using spirituality in the Japanese mediation context causes a series of issues which interlink with one another. In addition, the application of these terms together with the existing binary classification in the people of Japan interferes Japanese-speaking mediation with developing as a professional field.

Expressing the idea without using the terms spiritual or spirituality is possible, and thus the notion does not need to be codified by such terms. The Japanese translation seems to allow

some flexibility in not translating the original English texts literally.<sup>210</sup> If this is the case, what contributions are brought by voicing the idea in the Japanese-speaking mediation context? This is discussed in the next section.

## 7.3 Contributions

The same points identified as controversies in the previous subsection seem to contribute to the mediation practice conducted in Japanese.

### 7.3.1 Reinstallation of the distorted boundaries

Although the introduction by vocalising the idea with the terms spiritual or spirituality distorts the professional boundary, mediators who use those terms need to be responsible for their practice nature and also confident as a service provider in explaining their professional approaches toward their own practice goal: dispute settlement.

Umbreit (2001) suggested that an initiation regarding spirituality should not be made by a mediator. Such an initiation could become a cause of new dispute, if not worsening the dispute that already exists, in the context of mediation. The notion described by the terms spiritual or spirituality does not form a whole of the practical nature of mediation but describe as one component of the whole. When mediators do not share the notion, the component would not even be identified. When the notion was discussed retrospectively, as seen in Gold (1993 and 2003) and Umbreit (1997 and 2001), the descriptions or meaning of the terms become more precise and clearer because those terms illustrate what had happened. Likewise, Ishihara's parallel reference to the importance of spirituality as well as love in her public lecture as reported in Kumamoto Jinzai Shinbun (2012) would not be understood accurately unless Ishihara herself, not others, explained. Alternatively, her audiences may ask her to clarify the meaning. In other words, the users of the terms spiritual or spirituality can explain what they mean by the terms.

When the mediator wants to use the terms spiritual or spirituality as a part of his or her practice model, that needs to be shared with and agreed by the prospective clients prior to undertaking the instruction. This shared spirituality would make a faith-based mediation,

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<sup>210</sup> As discussed in Chapter 1.

although it is not necessarily based on one particular religious doctrine. Reinstallation of the distorted boundaries discussed in the previous section also becomes possible as a result of such an open discussion. By establishing one's own meaning by using the terms spiritual or spirituality, each mediator can reinstall the distorted boundaries between mediation and other professions. In doing so, mediators would be able to stress that they are not commodifying their spirituality. This enables mediation to appear different from other professions, which provide commodified spirituality as a form of service. By developing what they mean by the terminologies, they can each tailor their mediation practice in a unique manner to attract clients. This of course requires a future field research to identify any market demands as Goldberg and Blancke (2011 and 2012) suggested.

### **7.3.2 Mother hen pecks the eggs in contemporary Japan**

While society recognises the importance of who mediates matters and tries to make mediation a safe space, spirituality used by Gold (1993 and 2003) and Umbreit (1997 and 2001) was introduced to Japanese-speaking legal scholars and practitioners as well as other members of the general public without carefully considering the suitability of the chosen translation. What is more worth paying attention to is the very fact that Japanese mediation scholars felt it important to introduce the notion by literally translating the English terms spiritual or spirituality when they were allowed to freely do so. The question asks why those terms needed to be translated in the Japanese mediation context in the first place when the notion itself can be expressed without being codified by the terms spiritual and spirituality.

As revealed in Chapter 5, mediation practice, regardless of whether it is called by that name or not, has long been used in Japanese-speaking society and the recent enforcement of the ADR Act 2004 has shown their recognition of who mediates matters. Indeed, mediation in Japan has been, and still is, predominantly a practice of law as an alternative dispute resolution to the courts, and thus private mediation is heavily subject to legal restrictions under the 2004 Act such as the certification scheme. It is not hard to imagine the introduction of the notion of using spirituality to the Japanese mediation context might have opened the Japanese-speaking practitioners' eyes to see one new aspect of mediation which has not been addressed before.

The introduction of spirituality into mediation has certainly caused a stir in such a field predominantly considered and expected to be a part of the legal profession which requires

the certification scheme as a desirable measure due to the existence of organised crime groups. Ishihara (2017a) declared that, in the mediation training by Mark S. Umbreit in Kumamoto, she had felt the private dialogues of each participant were spoken out of their souls. By comparing Kumamoto's sessions to the one held in Kyoto in which many religious participants attended, she (2017a) further argued that religions or religious faiths alone are not enough to reach the dialogues spoken in such a manner. In her view (Ishihara, 2017a), this process of mediation is a journey of the soul travelled by those who are involved in the mediation and, in order to complete such a journey, prayers are essential to aid the travel process.

As seen in Chapter 6, people in Japan have not lost their interest in something invisible, otherworldly and supernatural. Although transliterated spirituality now implies something commercialised and commodified (Horie, 2018), the population, especially the younger generations, show an unchanged interest towards something supernatural including superstitious charms, talismans and spiritual places including shrines, and confess to praying. Some even admit that they engage in activities which are described as religious while declaring they are not religious. Some of these people may not even realise that their acts, which are often referred as a part of their customs, are considered as 'religious practice'.

These diffused religious interests and practices could lead to the introduction of the notion of using spirituality in the Japanese-speaking mediation context by literally transliterating the terms spiritual and spirituality. The introduction of the notion expressed by the terms spiritual and spirituality has initiated the recognition of something which was not a part of mediation in the country before: the *importance* of spirituality. Nonetheless, mediation in Japan has not been under any influence of religion or religious practices, as seen in Chapter 5.

Suzuki (1944/1972: 13) described how foreign cultures, such as Chinese, American and European, came to Japan before it fully developed its language as "rushed on in waves" and proclaimed that, as a result, "there were not enough days in which to make up, helter-skelter, all the new words for all the many things people had crammed into their heads. Such is the condition that has continued to prevail to the present." In modern Japan, the idea of using the terms spiritual or spirituality in the mediation context can be described as 'rushed on in

waves' to the country as well. As seen in Chapter 3, many mediators described their practice experiences using those terms, but each argument is different. Although textual analyses of Lois Gold and Mark S. Umbreit generated the eight precepts, and other publications on mediation also supported those precepts, such precepts nonetheless do not generalise the meanings of those terms used in English publications on mediation. Thus, the binary classification used by the people of Japan may not accurately judge each of such a whole argument containing spiritual or spirituality as a component.

Although this binary classification was anticipated as being eliminated and diminished by transliterated spirituality in the 1990s (Morioka, 1996), twenty years on since such an academic view was published, and the situation has not much changed as seen in Lewis (2018). While the binary classification remains with people of Japan and the terms used to express something spiritual change depending on the era, their interests in something spiritual remain unchanged. As if to emphasise their unchanged interests in something supernatural or in other-worldly matters, reviving the term *reisei* written in *kanji* letters has begun among academic scholars since the 2010s as the transliterated spirituality trend has gradually tailed off (Horie, 2018).<sup>211</sup>

In the Japanese-speaking mediation context, the introduction of the idea itself can be considered as what Suzuki (1944/1972: 19) described as “the mother hen pecks from the outside of the shell at the same time as the chick pecks from within”. In Suzuki’s argument, such a breaking shell exercise would have been completed by now. However, religions, including Buddhism, have become something not clearly understood by the people of Japan although they still attempt to judge whether it is religion or not. As religions have not succeeded in being a mother hen for all the eggs thus far in the society, some of those unhatched eggs in which chicks peck from inside might have hatched as a result of encountering the notion expressed by the English terms spiritual or spirituality. The unchanged interest of Japanese people in spirituality could have been the motive for initiating the idea of literally translating and explicitly using the notion originally described

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<sup>211</sup> It would not be difficult to link this revitalisation of *reisei* to the fact that over 20 years have now passed since the late 1990s when many cult-related incidents occurred, including the sarin gas attack by Aum Shinrikyo at Kasumigaseki, Tokyo, and that those who committed the crimes were executed in 2018. The memories of the incidents, as well as negative impressions of religious groups, are now fading.

by the English terms spiritual and spirituality in the Japanese-speaking mediation context as well.

Because their interests remain the same but the term *reisei* have not been well recognised due to Japan's societal background from the 1970s to date, the notion coming from foreign countries has been translated by using transliterated spirituality or the term *seishin* in the Japanese-speaking mediation context. In a reverse view, such translation, which avoid the direct connection to religions, allowed the audiences of Japan to express their long-hidden interests in something spiritual without being subject to the binary classification. By replacing those translations with the term *reisei*, which is clearly defined its relationship with religions by Daisetz Suzuki (1944/1972) in his book, the situation even improves because the meaning of 'spirituality' in the context of Japanese mediation has a reference and exists outside of a particular religious doctrine.

This introduction of the notion of using spirituality which was suggested by Lois Gold and Mark S. Umbreit in English to the Japanese mediation context by way of translation can, may, and should appear as though bringing coals to Newcastle. However, for those academics who have lived in modern Japan and studied overseas, such as Fujioka and Ishihara, the ideas they came across in the foreign languages might appear as being something important, new and advanced (Horie, 2009), which was worth being translated by using the transliteration written in *katakana* letters to introduce to other fellow mediators in Japan. As a result, this introduction itself works as pecks by a mother hen so that the chicks inside the eggs can hatch easily.

The controversies brought by introducing the English terms spiritual or spirituality to the Japanese-speaking mediation context can thus also be the contributions to the Japanese-speaking mediation profession. These contributions and controversies are opposite sides of the same coin of spirituality in the Japanese-speaking mediation context.

## 7.4 Conclusion

Introducing the notion expressed by Lois Gold and Mark S. Umbreit using the English terms spiritual and spirituality to the Japanese-speaking mediation context carry both

controversies and contributions. By discussing each of them, this chapter concludes as that the contributions may outweigh the controversies. By replacing the currently used translations, the term *reisei* resolves both the distorted boundaries between different fields caused by using the same translations and the misleading impressions as though mediators offering commodified spirituality as a part of their service.

While the effects from introducing the notion to the Japanese-speaking mediation context remain unclear at this point of academic development, it is evident from the recent progress in the field that the notion has been accepted by Japanese speaking mediators (Ishihara, 2017a; Kumamoto Jinzai Shinbun, 2012). If considering this fact without understanding the societal issues in its background, the introduction by transliteration itself could give an impression as if it is a new idea from foreign countries. What the present thesis must emphasise here is that the introduced notion is not a new concept. In fact, the idea itself seems to have been in Japan as *reisei* long before the notion came to the country in 2007. However, using spirituality in the context of mediation was and still relatively is new to the Japanese speaking mediation context.

The introduction in 2007 was as a result of the notion successfully hatching the eggs of Japanese scholars who went overseas and studied the English language. The notion worked as a mother hen's pecks, yet the chicks had already been inside of the eggs long before then. This describes the reason why those scholars who studied overseas immediately recognised the importance of introducing the notion by Lois Gold and Marks S. Umbreit to the Japanese-speaking mediation context.

The real issue identified by this research is that Japan seems to have failed to develop its own 'mother hen' to hatch the eggs which chicks peck from inside. Although people have interests in something supernatural and other-worldly, they somehow became sceptical of something 'spiritual' which can be expressed by the letter *rei* (霊) and developed the binary classification of whether it is religious or non-religious. As a result, transliterated spirituality and *seishin* were selected in the context of Japanese-speaking mediation even though the term *reisei* would have functioned better.

The notion expressed by transliterated spirituality or the English term spirituality *had to* become the mother hen in the context of Japanese-speaking mediation. Mark S. Umbreit's 2017 trainings in Japan attracted many participants with their own faith (Ishihara, 2017a). The progress and development are favourable for those who try to integrate something other than law in mediation in Japan. However, the question remains unanswered for the reason that Japan has not developed, or perhaps more accurately has failed to develop, its own mother hens, despite Suzuki (1944) confidently discussed the contrary in *Japanese Spirituality*. This is especially perplexing considering the fact that the people of Japan still maintain their interests in something supernatural and otherworldly and use the binary classification as being either being religious or non-religious. What is the implication of them applying such a classification? This question needs to be considered by future research.

Had the country steadily developed or preserved its own mother hens, using transliteration might have been superfluous to introduce the notion of using spirituality in the context of mediation. However, in the status quo of Japan, the notion was and still is considered as new, foreign and advanced enough to be transliterated in *katakana* letters. Because the introduction brings contributions at the same time as controversies, replacing the translation with the term *reisei* as a revitalisation of *kanji* letters may gradually lead to developing Japan's own mother hen to hatch the eggs containing chicks which are still alive.

The subsequent final chapter summarises and concludes this thesis by briefly discussing its final remarks and future recommendations.



## 8 Final remarks and future recommendations

### 8.1 Discoveries through this research

The purpose of the present thesis was to argue the suitability of the Japanese translations used in the Japanese-speaking mediation context for the English terms 'spiritual' and 'spirituality'. Focusing on the context and limiting the resource where the term originates as narrowly as possible enabled this research to confine its arguments, which are to examine three terms, that is, transliterated spirituality, *seishin* and *reisei*, in light of the publications by Lois Gold and Mark S. Umbreit. This research concluded *seishin* is not appropriate while transliterated spirituality may be used yet causing some issues to the Japanese-speaking mediation as a profession. The term *reisei* is better suited to reflect the meanings of those English terms used by Lois Gold and Mark S. Umbreit.

This research findings illustrate how complex the notion is when the English term spirituality is translated in the Japanese-speaking context (Tazaki, Matsuda, and Nakane, 2001 and 2002). However, the textual analyses conducted in the present thesis revealed the similar situation of the English-speaking mediation context concerning the terms spiritual and spirituality. What makes the English-speaking mediation context even more difficult are the broader geographic areas which the language covers in the modern era. As this research discovered, there are more than 32 articles and books published in the English language to discuss mediation and spirituality. They were published in countries located in various places all over the globe. Nailing down the origin of the idea of using those terms in the context of mediation within a specific culture, as a result, was not possible.

Furthermore, as discussed in Chapter 2, such a culture-based division separates people of the same nation rather discriminatory into two or more in the mediation context. While Ito's (2004) 'global spirituality' and Shimazono's (2012) *New Religious Movements and Culture* explain borderless spirituality mainly based on perspectives from Religious Studies and Sociology of Religion, what this research revealed was how user-dependently the English terms spiritual and spirituality are used even in the one context, which is mediation. The potential scenes when the term *reisei*, or spirituality in English, is used in the context of Japanese-speaking mediation are as follows: in a faith-based mediation or in the lectures or

publications on the topic. In each situation, the mediator or the speaker can, should and will describe not only the meaning of the term *reisei* but also what roles *reisei*, or spirituality in English, plays in their mediation practice.

As discussed in Chapter 6, the term *reisei* was defined by Suzuki (1975/1944). The meaning of the term *reisei* can and will remain the same in the context of Japanese-speaking mediation even though the term intersecting other fields. Any other unique thoughts and ideas added by each mediator to the notion expressed the term *reisei* remain independent because '*reisei*' remains only one component of the whole. By explaining what the term *reisei* means and what each mediator's argument is about, the term would not mislead the audience as if offering some commodified service.

The revitalisation of *kanji* letter, which means the transition from transliterated spirituality to the term *reisei* (Horie, 2018), has been evident in Japanese academia since the beginning of the 2010s when the transliterated spirituality trend, a 'spiritual boom', has gradually tailed off. The application of the term *reisei* raises awareness of the people involved in the Japanese-speaking mediation, regardless of whether they are a mediator or clients, toward the fact something expressed by the English term spirituality already existed in Japan. Although the term *reisei* still remains with the issue caused by the overlapping usages in other fields such as education, psychotherapy, psychology and religious studies, by having the concrete origin of the term in Suzuki (1944/1972), at least its meaning becomes clearer than transliterated spirituality mushrooming in so many areas with succinct, nuanced and context-bound meanings.

What the present thesis discovered as more alarming in the Japanese-speaking mediation context is the fact that Japanese-speaking people, either as a mediator or client, may not immediately recognise or understand the meaning of 'spirituality', even as either the term *reisei* or the form of transliteration, in the context. They may only extend their binary classification, which is formed on their vague, ambiguous understandings of religions and religiosity, to judge the notion presented as being either religious or non-religious. To this extent, it is vital for the mediator to be able to explain not only the meaning of 'spirituality' or *reisei* but also what it means to his or her practice.

Fortunately, the notion of using spirituality in mediation as a mother hen is already in the Japanese context to peck the eggshells from outside and, limiting to the mediation practice alone, the issue is with how to preserve the mother hen. By enlightenment in the revitalisation of *kanji*, people in Japan may start realising that, although the notion of applying spirituality in the mediation context was indeed a new idea hence worth being translated into Japanese, the 'spirituality' itself already exists in Japanese. They could and might start questioning why they had lost or stopped using the term *reisei*. Unfortunately, such a historical query together with its future implications need to be left for future research. This should be expanded in more detail as one of the recommendations for the future research below.

In such a status quo, the question may pose whether any similar research to the one conducted by Horie (2019) is indeed necessary at this point of mediation development. As discussed in chapter 2, Horie's (2019) purpose was to bridge the differences in the meanings between the Japanese term transliterated spirituality and the English term spirituality so that to be used in Japanese academic disciplines of psychology and sociology of religion. In mediation conducted in either Japanese or English language, the shared spirituality between a mediator and his or her clients becomes a basis of faith-based mediation model at an agreement of all attending parties. The narrow focus on the similarities between the arguments by Lois Gold and Mark S. Umbreit allowed this research to generate the eight precepts shown in Chapter 3.

However, spirituality referred to by both Gold (1993 and 2003) and Umbreit (1997 and 2001) was only one component of their different, whole arguments respectively. This research also discovered that spirituality as a component may be codified and labelled to acknowledge its importance to mediation practice yet, at the same time, can be omitted, unvoiced or embedded in a whole argument. Such a component may not require an integrated, universal meaning in the mediation context. The present thesis argued that this seemed to be something to do with the aim of mediation practice: dispute settlements by mediation users, not by mediators.

As for one example, the similar analyses made by focusing on the differences were found in Walker (1999, 2001 and 2007). The consequence of her approaches nonetheless was to

create a division between two spiritualities used in the same English-speaking mediation context, but in different cultures: indigenous and non-indigenous. The research approach taken by Walker can be interpreted as that there is no consensus over the meaning of these terms across the English-speaking mediation context alone. Explicit faith can be the very cause of the disputes. At this time of mediation development where there is no form of commodified spirituality as a 'product of service', each mediator may better explain his or her meaning of spirituality by sensitively accommodating each client's background, if so asked by the prospective clients.

Overall, this research contributes to the further development of the Japanese-speaking mediation by clarifying the meanings of spirituality introduced to the context and also putting forward the reasons why the term *reisei* appears to be a more appropriate translation of the English term in this context.

The next section discusses some future recommendations identified based on the findings of the present thesis.

## 8.2 Future recommendations

The recommendations for future research topics may also be better understood by using Suzuki's (1944/1972: 19) metaphorical expressions of a hen, chick and egg.

### 8.2.1 How to preserve the mother hen

Based on the analyses in this research, it became evident that Japanese mediation scholars seem not to realise the term *reisei* can or should be used to translate the idea expressed by the English term spirituality. This point raises further questions such as how Japanese speaking mediators will apply this notion in their actual practice which has been a profoundly law dominant field, and how their prospective Japanese-speaking clients will react to the introduction while their binary classification as being either religious or non-religious remains with people of Japan.

Even though the faith once shared in the context of mediation will be grouped as faith-based mediation, it is unknown how the idea expressed outside of actual mediation sessions, such as in publications or public lectures, are perceived by the audiences in Japan . Despite their

interests in something supernatural or otherworldly, people in Japan seem to have lost at some point their hens to peck their eggshells and help to hatch freely. By conducting research on historical queries as to why, when and how such happened, the current situation surrounding Japanese-speaking mediation practice may be better understood.

Furthermore, in order to improve the current situation of the Japanese-speaking mediation context which is subject to the binary classification as being either religious or not, a further question should be posed as to how the people of Japan have developed such a binary classification and what the implications of the classification have been in their society.

The above recommended research topics on investigating how to preserve the mother hen lead to below the discussions of future field studies to observe how the hatched chicks grow.

### **8.2.2 Field studies**

Because mediation involves both mediators and their clients, field research will contribute in identifying potential issues hidden in the market in relation to either applying spirituality in the practice or integrating it into the practice without sharing it with the other parties attending the mediation sessions.

The first topic for field research may be; when the chicks inside of the eggs have not yet died, what has been the mother hen? If the people of Japan have forgotten that they have chicks inside of them, a mother hen would not be needed and even sought in the first place. However, they did not forget about the chick; they just have forgotten the name of the chick. The chicks inside kept and still keep seeking the mother hen to help them out of the shells; one of the recent mother hens has been the transliterated spirituality but is now reviving to *reisei*. These 'chicks' which cannot be seen yet exists inside of the eggs could have been the motivator of the spirituality trend as well as the initiator of reviving *reisei*.

A second potential research topic is to investigate the attitudes of both mediators and members of general public toward *reisei*, or spirituality, used in the mediation context as suggested by Goldberg and Blancke (2011: 386 and 2012). Such a study will be able to identify whether the needs or interests for the notion exist only within a limited group of people, and, if so, to identify who they are. The identified group of people may be those with strong faiths, as Ishihara (2017a) described the attendees of Umbreit's training in Japan. If

that is the case, then the application of *reisei* may naturally lean toward a faith-based mediation and can eventually be limited to the faith-based mediation. It would be interesting then to further investigate what potential benefits the Japanese-speaking people receive by using the term *reisei* albeit limited to the mediation context. Their heteronomous attitudes together with the willingness of seeking authoritative figures in resolving their issues as argued by Miyatake (2017) may become more evident in such a study. Alternatively, the participation in the study may raise their awareness by describing how *reisei* functions in mediation and thus changing their heteronomous attitudes and becoming more independent to settle on their own.

In the context of mediation, the Japanese-speaking people's binary classification as being either religious or not, could influence on the understanding *reisei* which can be used to mean being either religious or non-religious or both at the time. Whether and how such a binary classification should be unfolded in the context of Japanese-speaking mediation can also be future research topics. In the same vein, Japanese-speaking mediators' attitudes also need to be investigated. As said in Chapter 5, the profession has been a part of the law dominant industry and never subject to such a binary classification.

Such studies allow to conduct case studies further discussing on how the application of spirituality contributes to or negatively impacts on actual mediation practice to settle the existing issues in Japan such as discrimination against, and disputes with, immigrants who have strong religious faiths, including, but not limited to, Christian Brazilian, Christian Korean or Muslim communities (see for instance, Hoshino, 2018; Lee, 2018; Numajiri and Miki, 2018). Such studies would generate a stream of knowledge in relation to people's attitudes which are profoundly based on the binary classification of being either religious or non-religious in the mediation context. The findings may also identify a contradiction of the currently identified binary classification and enable discussion as to whether the binary classification has worn out.

Finally, the field research on how to promote the currently unpopular mediation in Japan is necessary although such research requires a complex, interdisciplinary approach to the topic. By observing the whole picture based on empirical data, the research may be able to articulate whether the Japanese-speaking people, either as a mediator or client, are in fact

willing to use mediation which is not conducted in the same manner as the one currently available in the law dominant field. In other words, the study findings will enable the further discussion as to whether they are motivated to use mediation referring to *reisei* as a vital component rather than heavily weighing on the legal, materialistic perspectives by only appreciating their expected fair ratios or equal shares.

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### **[Legislation and other rules]**

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<http://www.japaneselawtranslation.go.jp/law/detail/?id=1207&vm=&re=02>

Act on Promotion of Use of Alternative Dispute Resolution (Act No. 151 of 2004) translated by the Ministry of Justice at

<http://www.japaneselawtranslation.go.jp/law/detail/?id=1958&vm=&re=>

The Attorney Act (Act No. 205 of 1949) translated by the Ministry of Justice at

<http://www.japaneselawtranslation.go.jp/law/detail/?id=1878&vm=04&re=01&new=1>

The Automobile Liability Security Act (Act No.97 of 1955) translated by the Ministry of Justice at <http://www.japaneselawtranslation.go.jp/law/detail/?id=2718&vm=04&re=01>

the Basic Act on Education (Act No. 25 of 1947 and Act No. 120 of 2006) translated by the Ministry of Justice at



<http://www.japaneselawtranslation.go.jp/law/detail/?id=2442&vm=04&re=01>; by the MEXT at [http://www.mext.go.jp/b\\_menu/kihon/data/07080117.htm](http://www.mext.go.jp/b_menu/kihon/data/07080117.htm)  
*Chihōjichi Hō* (Act No. 67 of 1947)  
Civil Code (Act No. 9 of 1896 as amended Act No. 78 of 2006) translated by the Ministry of Justice at <http://www.japaneselawtranslation.go.jp/law/detail/?id=2057&vm=04&re=02>  
Code of Civil Procedure (Act No. 109 of 1996) translated by the Ministry of Justice at [http://www.japaneselawtranslation.go.jp/law/detail/?re=02&kn\[\]=%E3%81%BF&ky=%E7%99%BB%E8%A8%98&page=6](http://www.japaneselawtranslation.go.jp/law/detail/?re=02&kn[]=%E3%81%BF&ky=%E7%99%BB%E8%A8%98&page=6)  
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Order for Enforcement of the Act on Promotion of Use of Alternative Dispute Resolution (Cabinet Order No. 186 of 2006)  
Ordinance for Enforcement of the Act on Promotion of Use of Alternative Dispute Resolution (Ministry of Justice Ordinance No. 52 of 2006) translated by the Ministry of Justice at [http://www.japaneselawtranslation.go.jp/law/detail\\_main?vm=02&id=2008](http://www.japaneselawtranslation.go.jp/law/detail_main?vm=02&id=2008)  
the Regulation for Enforcement of the School Education Act (No. 11 of 1947) available only in Japanese at [http://elaws.e-gov.go.jp/search/elawsSearch/elaws\\_search/lsg0500/detail?lawId=322M40000080011&openerCode=1](http://elaws.e-gov.go.jp/search/elawsSearch/elaws_search/lsg0500/detail?lawId=322M40000080011&openerCode=1)  
The Seventeen-article constitution (604)  
the Waste Management and Public Cleansing Act (Act No.137 of 1970)

#### Local Ordinances

Organized Crime Exclusion Ordinances

#### International Rules and Instruments

the United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)

#### **[Common Law]**

##### Japan

Supreme Court Decision held on 14 July 1971 昭和 44(あ)1124

Supreme Court Decision held on 26 April 2005 平成 16(ネ)946

Tsu District Court Decision, Yokkaichi Branch, held on 24 July 1972